



FEDERAL REGISTER

Vol. 91 Tuesday,
No. 46 March 10, 2026

Pages 11441–11888

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.federalregister.gov.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at www.govinfo.gov, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, gpocusthelp.com.

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 91 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	FRSubscriptions@nara.gov
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



Contents

Federal Register

Vol. 91, No. 46

Tuesday, March 10, 2026

Agricultural Marketing Service

RULES

Popcorn Promotion, Research, and Consumer Information Order, 11441–11443

Agriculture Department

See Agricultural Marketing Service

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 11553–11554

Medicare and Medicaid Programs:

Application from the American Association for Accreditation of Ambulatory Surgery Facilities for Continued Centers for Medicare and Medicaid Services-Approval of its Rural Health Clinic Accreditation Program, 11550–11551

Medicare Program:

Request for Renewal of Deeming Authority of the National Committee for Quality Assurance for Medicare Advantage Health Maintenance Organizations and Preferred Provider Organizations, 11551–11553

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Central Authority Payment Service, 11554

Civil Rights Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
Utah Advisory Committee, 11499

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

Community Development Financial Institutions Fund

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 11594–11595

Funds Availability:

Community Development Financial Institutions Program; Revised Application Submission Deadline, 11595
Native American Community Development Financial Institutions Assistance Program; Application Submission Deadline, 11594

Copyright Royalty Board

RULES

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate Those Performances 11458–11471

Determination of Rates and Terms for Digital Performance of Sound Recordings by New Subscription Services and Making of Ephemeral Copies to Facilitate Those Performances, 11471–11474

Defense Department

NOTICES

Arms Sales, 11517–11533

Publication of Housing Price Inflation Adjustment, 11527

Drug Enforcement Administration

RULES

Designation of Propionyl Chloride as a List I Chemical, 11450–11456

NOTICES

Importer, Manufacturer or Bulk Manufacturer of Controlled Substances; Application, Registration, etc.:
Sigma Aldrich Research Biochemicals Inc., 11562–11563

Energy Department

See Federal Energy Regulatory Commission

PROPOSED RULES

Petition for Rulemaking:

America First Legal Foundation, 11495–11498

NOTICES

Filing:

Self-Certification of Coal Capability under the Powerplant and Industrial Fuel Use Act 11534–11539

Hearings, Meetings, Proceedings, etc.:

Environmental Management Site-Specific Advisory Board, Oak Ridge, 11534–11535

Environmental Management Site-Specific Advisory Board, Paducah, 11535

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

North Dakota; Regional Haze State Implementation Plan; Regional Haze Five Year Progress Report and Nitrogen Oxides Best Available Retrofit Technology Determination for Coal Creek Station for the First Implementation Period, 11474–11477

Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Voluntary Remand Response and Five-Year Review, 11802–11887

NOTICES

Certain New Chemicals:

Status Information for September–December 2025, 11544–11548

Export-Import Bank

NOTICES

Hearings, Meetings, Proceedings, etc.:

Advisory and Sub-Saharan Africa Advisory Committees, 11548–11549

Federal Aviation Administration

RULES

Airworthiness Directives:

Airbus Helicopters, 11446–11449

Airbus SAS Airplanes, 11443–11446

PROPOSED RULES

Airworthiness Directives:

Airbus SAS Airplanes, 11478–11480

Dassault Aviation Airplanes, 11480–11483

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Basic Survival Skills for General Aviation Training Record, 11590–11591
 Physiology Training Record, 11590

Federal Energy Regulatory Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 11541–11542

Application:

Banister Hydro, Inc., 11543–11544
 Pacific Gas and Electric Co., Reasonable Period of Time for Water Quality Certification, 11539
 Combined Filings, 11539–11541
 Environmental Assessments; Availability, etc.:
 Spencer Mountain Hydropower, LLC, 11542–11543

Federal Maritime Commission**NOTICES**

Agreements Filed, 11549

Federal Mine Safety and Health Review Commission**NOTICES**

Meetings; Sunshine Act, 11549

Federal Motor Carrier Safety Administration**NOTICES**

Exemption Application:
 Qualification of Drivers; Epilepsy and Seizure Disorders, 11591–11593

Federal Railroad Administration**NOTICES**

Request for Amendment:
 National Railroad Passenger Corp. (Amtrak), Positive Train Control System, 11593–11594

Federal Reserve System**NOTICES**

Change in Bank Control:
 Acquisitions of Shares of a Bank or Bank Holding Company, 11549–11550

Financial Crimes Enforcement Network**RULES**

Geographic Targeting Order Imposing Recordkeeping and Reporting Requirements on Certain Money Services Businesses along the Southwest Border, 11456–11457

Food and Drug Administration**NOTICES**

Guidance:
 New and Revised Draft Q and As on Biosimilar Development and the Biologics Price Competition and Innovation Act, 11555–11556
 Patent Extension Regulatory Review Period:
 Aurora EV–ICD, 11557

Foreign Assets Control Office**NOTICES**

Sanctions Action, 11595–11597

Foreign-Trade Zones Board**NOTICES**

Authorization of Production Activity:
 Air Venturi, Ltd., Foreign-Trade Zone 40, Solon, OH, 11500

Garmin International, Inc., Foreign-Trade Zone 17, Olathe, KS, 11499
 Molnlycke Health Care, Foreign-Trade Zone (FTZ) 186, Brunswick, Portland, and Wiscasset, ME, 11500
 RECARO Aircraft Seating Americas, LLC, Foreign-Trade Zone 196, Fort Worth, TX, 11500
 The Premcor Refining Group, Inc., Foreign-Trade Zone 116, Port Arthur, TX, 11499–11500
 ZF Transmissions Gray Court LLC, Foreign-Trade Zone 38, Gray Court and Fountain Inn, SC, 11500

Health and Human Services Department

See Centers for Medicare & Medicaid Services

See Children and Families Administration

See Food and Drug Administration

See National Institutes of Health

Homeland Security Department

See U.S. Citizenship and Immigration Services

Indian Affairs Bureau**NOTICES**

Indian Gaming:

Approval by Operation of Law of the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin and State of Wisconsin Gaming Compact, 11560

Institute of Museum and Library Services**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Grants to States Program State Reporting System, 11578–11579

Interior Department

See Indian Affairs Bureau

See National Park Service

Internal Revenue Service**NOTICES**

Charter Amendments, Establishments, Renewals and Terminations:
 Taxpayer Advocacy Panel, 11597–11599

International Trade Administration**NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 Certain Steel Racks and Parts Thereof from the People's Republic of China, 11500–11504
 Certain Van-Type Trailers and Subassemblies Thereof from Canada, the People's Republic of China, and Mexico, 11509
 Common Alloy Aluminum Sheet from India, 11509–11511
 Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan, 11507–11508
 Frozen Warmwater Shrimp from Ecuador, 11511–11512
 Heavy Walled Rectangular Pipes and Tubes from Mexico, 11504–11507
 Court Decision Not in Harmony with Final Scope Ruling, Amended Final Scope Ruling Pursuant to Court Decision:
 Fresh Garlic from the People's Republic of China, 11512–11513

International Trade Commission**NOTICES**

Investigations; Determinations, Modifications, and Rulings, etc.:

Certain Tow-Behind Lawn Groomers and Parts Thereof from China, 11562

Lithium Hexafluorophosphate from China, 11560–11561

Justice Department

See Drug Enforcement Administration

NOTICES

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

Generic Clearance for Cognitive, Pilot, and Field Studies for Office of Juvenile Justice and Delinquency Prevention Data Collection Activities, 11563–11564

Labor Department

See Veterans Employment and Training Service

Legal Services Corporation**NOTICES**

Funding Opportunity:

Calendar Year 2027 Basic Field Grant Awards, 11578

Meetings; Sunshine Act, 11577–11578

Library of Congress

See Copyright Royalty Board

National Foundation on the Arts and the Humanities

See Institute of Museum and Library Services

National Institutes of Health**NOTICES**

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

The Clinical Trials Reporting Program Database; Correction, 11558–11559

Hearings, Meetings, Proceedings, etc.:

Center for Scientific Review, 11557–11558

Center for Scientific Review; Cancellation, 11559

National Institute of Diabetes and Digestive and Kidney Diseases, 11557

National Institute on Aging, 11559

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Exclusive Economic Zone off Alaska:

Bering Sea and Aleutian Islands; 2026 and 2027 Harvest Specifications for Groundfish, 11750–11799

PROPOSED RULES

Taking or Importing of Marine Mammals:

U.S. Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar in the Western and Central North Pacific Ocean and Eastern Indian Ocean, 11618–11747

NOTICES

Endangered and Threatened Species:

Take of Abalone, 11517

Hearings, Meetings, Proceedings, etc.:

Gulf Fishery Management Council, 11513–11514

Mid-Atlantic Fishery Management Council, 11516

New England Fishery Management Council, 11516

Requests for Nominations:

Hydrographic Services Review Panel, 11514–11516

National Park Service**PROPOSED RULES**

Alaska; Hunting and Trapping in National Preserves, 11483–11495

Securities and Exchange Commission**NOTICES**

Application:

Japan Smaller Capitalization Fund, Inc. and Nomura Asset Management U.S.A. Inc., 11579–11580

Exemption:

Exchange Act, 11587–11588

Meetings; Sunshine Act, 11586–11587

Self-Regulatory Organizations; Proposed Rule Changes: The Options Clearing Corp., 11580–11586

Small Business Administration**NOTICES**

Disaster Declaration:

Louisiana, 11588

Louisiana; Public Assistance Only, 11588–11589

State Department**NOTICES**

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

Medical History and Examination, 11589

Transportation Department

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

See Federal Railroad Administration

Treasury Department

See Community Development Financial Institutions Fund

See Financial Crimes Enforcement Network

See Foreign Assets Control Office

See Internal Revenue Service

NOTICES

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

Social Impact Partnerships to Pay for Results Act Program Review, 11599–11615

Charter Amendments, Establishments, Renewals and Terminations:

Federal Advisory Committee on Insurance, 11615–11616

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

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

Immigrant Petition for the Gold Card Program, 11559–11560

Veterans Employment and Training Service**NOTICES**

HIRE Vets Medallion Program; Award Recipients, 11564–11577

Separate Parts In This Issue**Part II**

Commerce Department, National Oceanic and Atmospheric Administration, 11618–11747

Part III

Commerce Department, National Oceanic and Atmospheric Administration, 11750–11799

Part IV

Environmental Protection Agency, 11802–11887

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

1215.....11441

14 CFR

39 (2 documents) 11443,
11446

Proposed Rules:

39 (2 documents) 11478,
11480

21 CFR

1310.....11450

31 CFR

1010.....11456

36 CFR**Proposed Rules:**

13.....11483

37 CFR

380 (4 documents) 11458,
11462, 11465, 11468

383.....11471

40 CFR

52.....11474

60.....11802

48 CFR**Proposed Rules:**

970.....11495

50 CFR

679.....11750

Proposed Rules:

218.....11618

Rules and Regulations

Federal Register

Vol. 91, No. 46

Tuesday, March 10, 2026

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1215

[Doc. No. AMS–SC–24–0038]

Updates to the Popcorn Promotion, Research, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements updates to the Popcorn Promotion, Research, and Consumer Information Order (Order). The updates increase the mandatory assessment rate from 5 cents per hundredweight of popcorn to 6 cents to reflect the present rate, which was administratively increased in 2001 and has been charged of processors ever since. Additionally, subpart C is added to the Order, which prescribes late payment and interest charges on past due assessments.

DATES: Effective April 9, 2026.

FOR FURTHER INFORMATION CONTACT: George Webster, Marketing Specialist, or Alexandra Caryl, Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, Agricultural Marketing Service (AMS); U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–8085; or email: George.Webster@usda.gov or Alexandra.Caryl@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule affecting the Order (7 CFR part 1215) is authorized by the Popcorn Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 7481–7491).

Executive Order 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive

Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Popcorn Promotion, Research, and Consumer Information Order. Additionally, this action is exempt from the requirements of Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

Executive Order 13175

This action was reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” AMS assessed the impact of this final rule on Indian Tribes and determined this rule does not have Tribal implications that require consultation under Executive Order 13175. AMS hosts a quarterly teleconference with Tribal leaders where matters of mutual interest regarding the marketing of agricultural products are discussed. Information about the changes to the regulations will be shared during an upcoming quarterly call. AMS will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided as needed with regard to these changes to the Order.

Executive Order 12988

This action was reviewed under Executive Order 12988, “Civil Justice Reform.” It is not intended to have retroactive effect. Section 580 of the Act (7 U.S.C. 7489) provides that nothing in this subtitle preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

Under section 577 of the Act (7 U.S.C. 7486), a person subject to an order may file a written petition with USDA stating that the order, a provision of the order, or an obligation imposed in connection with the order, is not established in accordance with the law, and request a modification of an order or obligation or an exemption from the order or obligation. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the date of imposition of the obligation. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the

petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA’s final ruling.

Background

Under the Order, the Popcorn Board (Board), with USDA oversight, administers a nationally coordinated program of research, promotion, and consumer information designed to maintain and expand markets for U.S. popcorn. The program is financed by assessments on processors of more than four million pounds of popcorn annually. The Board, which is composed of five popcorn processors, unanimously recommended these changes during a meeting on August 28, 2024.

Assessment Rate Increase

This final rule updates § 1215.51(c) of the Order, which states that the rate of assessment shall be 5 cents per hundredweight of popcorn. The rate was administratively increased by the Board in 2001 to 6 cents per hundredweight of popcorn and has been charged of processors since. This action updates the assessment rate in the Order to accurately reflect the change that took place in 2001 and helps eliminate any confusion amongst the industry regarding the current mandatory assessment.

Interest Charges on Past Due Assessments

Section 575(j) of the Act (7 U.S.C. 7484(j)) states that “The order shall contain such other terms and conditions, consistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.”

Section 1215.51(e) of the Order states that “Each person responsible for remitting assessments under paragraphs (a) and (b) of this section shall remit the amounts due from assessments to the Board on a quarterly basis no later than the last day of the month following the last month in the previous quarter in which the popcorn was marketed, in such manner as prescribed by the Board.”

Section 1215.51(f) states that “The Board shall impose a late payment charge on any person who fails to remit to the Board the total amount for which the person is liable on or before the payment due date established under this section. The amount of the late payment charge shall be prescribed in rules and regulations as approved by the Secretary.”

Section 1215.51(g) states that “The Board shall impose an additional charge on any person subject to a late payment charge, in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in rules and regulations as approved by the Secretary.”

Previously, the Board outlined the late payment and interest fees charged on past due assessments from processors of popcorn in their Operational Policies and Procedures document; however, these fees were not reflected in the Order. This final rule codifies the Board’s ability to collect late payment and interest charges on past due assessments by creating a new section in the Order outlining these fees.

Under this rule, a one-time late payment charge of \$250 is imposed on any processor who fails to pay any assessments owed within 30 calendar days of the date they are due. This one-time late payment charge increases to \$500 after 90 days of delinquency. These late payment charge amounts were chosen by the Board after reviewing Order language of other research and promotion programs of similar size and annual assessment collections.

Additionally, 1.25 percent per month interest on any outstanding balance, including any late payment and accrued interest, is added to any accounts for which payment has not been received within 30 calendar days of when the assessments are due. This monthly interest charge was chosen by the Board to match the current language in their Operational Policies and Procedures document.

Final Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS considered the economic impact of this final action on small entities that would be affected by this rule. Accordingly, AMS prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural producers of popcorn as those having annual receipts equal to or less than \$2.5 million (NAICS code: 111150—Corn Farming) and small agricultural service firms (processors and importers) as those having annual receipts equal to or less than \$34 million (NAICS code: 115114—Postharvest Crop Activities).

For the purpose of fitting regulatory actions to the scale of businesses for this RFA data used is from the National Agricultural Statistics Service (NASS)¹ and Popcorn Board (Board). The top five popcorn producing states according to the 2022 Census of Agriculture are Indiana, Nebraska, Illinois, Ohio, and Missouri. In 2022, Nebraska, Ohio, and Missouri had decreases in harvested acres while Indiana and Illinois saw increases compared to the 2017 Census of Agriculture. Overall, the 2022 United States total harvested acreage decreased by roughly 7.6 percent compared to 2017.

According to the 2022 Census of Agriculture published by NASS, there are roughly 860 total farms that produced a total of 10,141,686 hundredweight (a little over 1 billion pounds) of popcorn in 2022. NASS has reported that, on average, the 2022 parity price received for popcorn was roughly \$60.80 per hundredweight (\$0.61 per pound) of popcorn.

Taking the total hundredweight of popcorn produced in 2022, which was 10,141,686, multiplied by the parity price of \$60.80 per hundredweight, gives a total parity price revenue of roughly \$616,614,509 for the industry in 2022. Using the total parity price revenue the industry received in 2022 of roughly \$616.6 million dollars divided by the total 860 popcorn farms in 2022, assuming normal distribution, gives an average of roughly \$716,994 in revenue per farm from parity prices. Even with the potential of additional pricing being added into the parity price of popcorn per hundredweight from each producer, the average price per producer (inclusive of parity pricing) would not exceed the established revenue thresholds set by the SBA. Thus, most producers and processors of popcorn would be considered small entities and would not be disproportionately burdened.

Under the Order, the Board administers a nationally coordinated program of promotion, research,

¹ The only NASS data available for this final rule is the Agricultural Survey data on parity pricing (prices farmers receive) reported annually in January and the 2022 Agricultural Census.

consumer information and industry information designed to strengthen the position of popcorn in the marketplace, and to maintain and expand domestic and foreign markets and uses for popcorn. The program is financed by assessments on domestic processors only who process and distribute over 4 million pounds of popcorn annually. The currently charged rate of assessment, established in 2001, is 6 cents per hundredweight of popcorn. The Order specifies that processors are responsible for submitting the assessment to the Board in a timely manner and maintaining records necessary to verify their reporting(s). Based on information from the Board, there are currently a total of 18 processors who pay mandatory assessments into the program and 15 exempt processors (under the 4-million-pound threshold) for a total of 33.

Processors who process and distribute 4 million pounds or less of popcorn annually are exempt from this assessment. Processors that operate under an approved National Organic Program (NOP) (7 CFR part 206) system plan, process only products that are eligible to be labeled as 100 percent organic under the NOP and are not split operations shall also be exempt from the payment of assessments.

After auditing the 2022 total mandatory assessments collected as reported by the *2018 to 2022 Evaluation of the Popcorn Board* report (page 5) located on the Board’s website, the total assessments collected was \$686,339. Using the total 2022 mandatory assessment collected of \$686,339 divided by the Board’s 6 cents per hundredweight mandatory assessment gives roughly the total popcorn hundredweight of 11,438,983 (roughly 1.14 billion pounds) assessed from domestic processors who processed and distributed over 4 million of popcorn annually. Some NASS data is not published to protect small producers and processors of the small domestic popcorn industry. This can account for the variance in why the total estimated 2022 hundredweight as reported by the *2018 to 2022 Evaluation of the Popcorn Board* is larger than as reported by the NASS 2022 Census of Agriculture.

This larger 2022 popcorn hundredweight as reported by the *2018 to 2022 Evaluation of the Popcorn Board* report (page 5) can be used to determine if small businesses are adversely affected by this rule. Taking this estimated total 11,438,983 hundredweight of popcorn produced in 2022 multiplied by the parity price of \$60.80 per hundredweight gives a total parity price revenue of roughly

\$695,490,187 for the industry. Using the estimated total parity price revenue the industry received in 2022 of roughly \$695.5 million dollars divided by the total 860 popcorn farms in 2022 (assuming normal distribution), gives roughly an average of \$808,710 in revenue per farm from parity prices. Thus, even with this higher estimate most producers and processors of popcorn would be considered small entities and would not be disproportionately burdened by this final rule. Most of the processors are classified as small businesses under the criteria established by the Small Business Administration.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulation (5 CFR part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the Order were approved previously under OMB control number 0581–0093. This final rule does not result in a change to the information collection and recordkeeping requirements previously approved.

As with all Federal research and promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

Regarding alternatives, the Board considered not making these changes to the Order and leaving it as-is. If the Order was left unchanged, the stated assessment rate would remain incorrect and would continue to cause confusion amongst the industry. By leaving the Order unchanged and not adding in language prescribing late fees and interest charges on unpaid assessments, the Board would also have trouble collecting assessments on a timely basis. After considering these potential issues, the Board decided against leaving the Order unchanged.

The Board discussed these changes throughout 2023 and 2024 and unanimously recommended the changes during their in-person meeting on August 28, 2024. The Board is made up

of five processors of over four million pounds of popcorn annually.

A proposed rulemaking concerning this action was published in the **Federal Register** on June 10, 2025 (90 FR 24353). A copy of the proposed rulemaking was also made available through the internet by AMS via <https://www.regulations.gov>. A 30-day comment period ending July 10, 2025, was provided for interested parties to respond to the proposal.

Comment Analysis

During the proposed rule's 30-day comment period, AMS received one comment which may be viewed on <https://regulations.gov>. The one comment received did not address the merits of the proposed rule, and accordingly, no changes were made to the rule as proposed.

After consideration of all relevant material presented, AMS has determined that this rule is consistent with and will effectuate the purposes of the Act.

List of Subjects in 7 CFR Part 1215

Administrative practice and procedure, Advertising, Agricultural research, Popcorn, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 1215 as follows:

PART 1215—POPCORN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

- 1. The authority citation for 7 CFR part 1215 continues to read as follows:

Authority: 7 U.S.C. 7481–7491; 7 U.S.C. 7401.

§ 1215.51 [Amended]

- 2. Amend § 1215.51(c) by removing the number “5” and adding in its place the number “6”.
- 3. Add subpart C, consisting of § 1215.520, to read as follows:

Subpart C—Past Due Assessments

Sec.

1215.520 Late payment and interest charges for past due assessments.

§ 1215.520 Late payment and interest charges for past due assessments.

(a) A late payment charge shall be imposed on any processor who fails to make timely remittance to the Board of the total assessments for which such processor is liable. The late payment charge will be imposed on any assessments not received within 30 calendar days of the date they are due.

This one-time late payment charge shall be \$250 and will be increased to \$500 after 90 days of delinquency.

(b) In addition to the late payment charge, 1.25 percent per month interest on the outstanding balance, including any late payment and accrued interest, will be added to any accounts for which payment has not been received within 30 calendar days of the date when assessments are due. Interest will continue to accrue monthly until the outstanding balance is paid to the Board.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026–04694 Filed 3–9–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2296; Project Identifier MCAI–2025–01794–T; Amendment 39–23287; AD 2026–05–14]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A319–171N and –173N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –271NX, –271NY, –272N, and –272NX airplanes. This AD was prompted by reports of engine stalls during takeoff in icing conditions with low visibility due to freezing fog. This AD requires revising the existing airplane flight manual (AFM). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 25, 2026.

The FAA must receive comments on this AD by April 24, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–2296; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT:

Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 781–238–7655; email: carol.nguyen@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–2296; Project Identifier MCAI–2025–01794–T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission

containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 781–238–7655; email: carol.nguyen@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0275, dated December 9, 2025 (EASA AD 2025–0275) (also referred to as the MCAI), to correct an unsafe condition on all Airbus SAS Model A319–171N and –173N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –271NX, –271NY, –272N, and –272NX airplanes. The MCAI states that reports of engine stalls during takeoff in icing conditions with low visibility due to icing fog (also known as freezing fog) were received. This condition, if not corrected, could lead to a dual engine surge in a critical flight phase. The FAA is issuing this AD to address the unsafe condition on these products.

FAA’s Determination

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

AD Requirements

This AD requires revising the existing AFM to incorporate a freezing fog take-off restriction.

Differences Between This AD and the MCAI

EASA AD 2025–0275 requires incorporating all procedures within the Airbus AFM Documentary Unit (DU) 00017198.0001001, dated December 1, 2025, which includes a freezing fog take-off restriction and an updated engine run-up procedure in ground icing conditions. The FAA has determined that only the freezing fog

take-off restriction addresses the unsafe condition of engine stalls during takeoff in icing conditions with low visibility due to freezing fog. However, the area of concern for the unsafe condition is in low visibility in icing condition, which is <150m visibility and an outside air temperature of + 3 °C (37 °F) or below. The updated run-up procedures are for visibility of 150 m and above and an outside air temperature of + 3 °C (37 °F) or below, which is outside of the area of concern for the unsafe condition. Therefore, the FAA only requires revising the AFM to incorporate a freezing fog take-off restriction in the Normal Procedures, Ice and Rain Protection, Ground Engine Operation in Icing Condition section.

Interim Action

The FAA considers that this AD is an interim action. The FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because engine stalls during takeoff in icing conditions with low visibility due to freezing fog could result in a dual engine surge at a critical phase of flight. To address this unsafe condition during cold weather operations, the actions required by this AD must be accomplished within 7 days, which is a shorter time period than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to

5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 404 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$0	\$85	\$34,340

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–05–14 Airbus SAS: Amendment 39–23287; Docket No. FAA–2026–2296; Project Identifier MCAI–2025–01794–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 25, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A319–171N and –173N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –271NX, –271NY, –272N, and –272NX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 72, Turbine/turboprop engine.

(e) Unsafe Condition

This AD was prompted by reports of engine stalls during takeoff in icing conditions with low visibility due to freezing fog. The unsafe condition, if not addressed, could result in a dual engine surge in a critical flight phase.

(f) Compliance

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

(g) Revision of Existing Airplane Flight Manual (AFM)

Within 7 days after the effective date of this AD, revise the Normal Procedure, Ice and Rain Protection, Ground Engine Operation in Icing Condition section of the existing AFM, to include the information specified in figure 1 to paragraph (g) of this AD. This may be accomplished by inserting a copy of figure 1 to paragraph (g) of this AD into the existing AFM. Using an AFM revision that includes information identical to that in figure 1 to paragraph (g) of this AD is acceptable for compliance with the requirement of this paragraph.

Figure 1 to paragraph (g) - Freezing Fog Take-off Restriction

CAUTION:	In the following procedure the flight crew must use visibility only (and not RVR).

- **When operating the engines on ground in icing conditions, with the OAT at +3 °C (37 °F) or below:**
 - **If at any time during the operation of the engines on ground there is freezing fog (FZFG) and the visibility is lower than 150 m (500 ft):**
Takeoff is not authorized.
Request maintenance action to deice the engine.

(h) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, AIR-520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of AIR-520, Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (i) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR-520, Continued Operational Safety Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Additional Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 781-238-7655; email: carol.nguyen@faa.gov.

(j) Material Incorporated by Reference

None.

Issued on March 5, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026-04677 Filed 3-6-26; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2026-2290; Project Identifier MCAI-2025-01833-R; Amendment 39-23282; AD 2026-05-09]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. This AD was prompted by a report of a broken hose of the draining system in the rear cargo compartment due to hot air leakage from an engine combustion chamber drain valve failure. This AD requires for certain helicopters operational inspections (checks) of each engine drain valve, inspection of each affected rear cargo compartment hose (hose), installation and repetitive inspections of thermal papers, and depending on the results of those inspections, corrective actions. This AD also requires for certain helicopters, inspection of the rear cargo compartment hoses in conjunction with the initial operational inspections (checks) and, depending on the results of the inspections, performing corrective actions. Additionally, this AD prohibits installing an affected hose on any helicopter unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 25, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 25, 2026.

The FAA must receive comments on this AD by April 24, 2026.

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

- *Federal eRulemaking Portal*: Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax*: (202) 493-2251.

- *Mail*: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-2290; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA,

call (817) 222-5110. It is also available at *regulations.gov* under Docket No. FAA-2026-2290.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA-2026-2290; Project Identifier MCAI-2025-01833-R” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

Background

EASA, which is the Technical Agent for the Member States of the European

Union, has issued EASA AD 2025-0287, dated December 17, 2025 (EASA AD 2025-0287) (also referred to as the MCAI), to correct an unsafe condition on all Airbus Helicopters Model AS 355 E, AS 355 F, AS 355 F1, AS 355 F2, AS 355 N, and AS 355 NP helicopters. The MCAI states that there was a report where the hose of the draining system was found broken in the rear cargo compartment, and the engine combustion chamber drain valve was blocked in the open position. This resulted in an emergency landing due to a smoke event in the cabin. The MCAI further states subsequent investigation revealed that the hose cannot withstand high temperature, in cases of hot air leakage, due to failure of the engine drain valve.

The FAA is issuing this AD to prevent failure of the rear cargo compartment hoses. The unsafe condition, if not addressed, could result in an uncontrolled fire in the cargo compartment, reduced control of the helicopter, and possible loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2026-2290.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0287, which specifies procedures for certain helicopters for performing operational inspections (checks) of each engine drain valve, inspection of each affected hose (right-side and left-side), part number (P/N) 350A21010123 (manufacturer P/N 350A21-0101-23), installation of thermal paper on each drain pipe, and for certain helicopters repetitive operational inspections (checks) of each engine drain valve, and inspection of each affected hose in conjunction with the initial operational inspection (check). Depending on the results of these inspections, EASA AD 2025-0287 specifies procedures for corrective actions, which include installation of silicone tape on the hose, replacement of an affected hose, replacement of the drain pipe, visual inspection of the thermal paper, repetitive operational inspections (checks), and replacement of the thermal paper.

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

FAA’s Determination

These products have been approved by the civil aviation authority (CAA) of another country and are approved for

operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in EASA AD 2025-0287, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. See “Differences Between this AD and the MCAI” for a discussion of the general differences included in this AD.

The owner/operator (pilot) holding at least a private pilot certificate may perform a visual check of both sides of the thermal paper and must enter compliance with this requirement into the helicopter maintenance records in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439. The pilot may perform these actions because they only involve a visual check of the thermal paper and no maintenance or material is required to perform this check. This action could be performed equally well by a pilot or mechanic.

Differences Between This AD the MCAI and the Material Referenced

Where the MCAI and the material referenced in EASA AD 2025-0287 specify to perform operational checks or to perform certain checks, this AD refers to this as inspections, except the visual check of the thermal paper.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2025-0287 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2025-0287 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025-0287 does not mean that operators need comply only with that

section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0287. Material required by EASA AD 2025–0287 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–2290 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

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

make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The occurrence that prompted the MCAI resulted in an emergency landing due to a smoke event in the cabin. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because failure of the rear cargo compartment hose due to high temperature from hot air leakage increases the risk of undetected and uncontrolled fire, which could result in loss of the helicopter.

Additionally, the compliance times for the operational checks, hose inspection, and installation of thermal paper based on usage would average to about four months. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for

prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 36 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect engine drain valve, hoses, and install thermal paper on drain pipe (Model AS355N and AS355NP helicopters).	2 work-hours × \$85 per hour = \$170.	\$20	\$190	\$6,840
Replace thermal paper (Model AS355N and AS355NP helicopters).	1 work-hour × \$85 per hour = \$85.	38	123	4,428
Inspect thermal paper (Model AS355N and AS355NP helicopters).	1 work-hour × \$85 per hour = \$85.	0	85	3,060
Install silicone tape (Model AS355N and AS355NP helicopters).	1 work-hour × \$85 per hour = \$85.	17	102	3,672
Inspect engine drain valve and hoses (Model AS355E, AS355F, AS355F1, and AS355F2 helicopters).	1 work-hour × \$85 per hour = \$85.	0	85	3,060

The FAA estimates the following costs to do any repairs or replacements that would be required based on the

results of the inspection. The agency has no way of determining the number of

helicopters that might need these repairs or replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspect engine drain valve, replace hose, and install silicone tape and thermal paper (Model AS355N and AS355NP helicopters).	3 work-hours × \$85 per hour = \$255	\$647	\$902
Replace hose, and install silicone tape (Model AS355N and AS355NP helicopters).	2 work-hours × \$85 per hour = \$170	609	779
Replace hose, install silicone tape, and replace drain pipe (Model AS355E, AS355F, AS355F1, and AS355F2 helicopters).	3 work-hours × \$85 per hour = \$255	1,065	1,320

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII:

Aviation Programs describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–05–09 Airbus Helicopters:

Amendment 39–23282; Docket No. FAA–2026–2290; Project Identifier MCAI–2025–01833–R.

(a) Effective Date

This airworthiness directive (AD) is effective March 25, 2026

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 7170, Powerplant/Engine Drains.

(e) Unsafe Condition

This AD was prompted by a report of a broken hose of the draining system in the

rear cargo compartment due to hot air leakage from an engine combustion chamber drain valve failure. The FAA is issuing this AD to prevent failure of the rear cargo compartment hoses. The unsafe condition, if not addressed, could result in an uncontrolled fire in the cargo compartment, reduced control of the helicopter, and possible loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

(1) Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0287, dated December 17, 2025 (EASA AD 2025–0287).

(2) The owner/operator (pilot) holding at least a private pilot certificate may perform a visual check of both sides of the thermal paper and must enter compliance with this requirement into the helicopter maintenance records in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Exceptions to EASA AD 2025–0287

(1) Where EASA AD 2025–0287 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0287 specifies compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where paragraph (6) of EASA AD 2025–0287 specifies “accomplish a visual inspection of those thermal papers in accordance with the instructions of the ASB”, this AD requires replacing that text with “accomplish a visual check of those thermal papers for any colored boxes, and if one or more boxes are found colored, before further flight, a licensed mechanic authorized under 14 CFR part 43 must perform the corrective actions specified in paragraph (7) of EASA AD 2025–0287”.

(4) Where the material referenced in EASA AD 2025–0287 specifies discarding parts, this AD requires removing those parts from service.

(5) Where the material referenced in EASA AD 2025–0287 specifies “check” this AD requires replacing that text with “inspect”, except for the visual check (inspection) of the thermal papers, after the last flight of each day.

(6) Where the material referenced in EASA AD 2025–0287 specifies “new”, this AD requires replacing that text with “new (never previously installed)”.

(7) This AD does not adopt “Note 1” or the “Remarks” section of EASA AD 2025–0287.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0287 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Special Flight Permits

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

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

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0287, dated December 17, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 2, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–04614 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–1189]

Designation of Propionyl Chloride as a List I Chemical

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration is finalizing the control of propionyl chloride as a list I chemical under the Controlled Substances Act (CSA). Propionyl chloride is used in the illicit manufacture of the controlled substances fentanyl, fentanyl analogues, and fentanyl-related substances, and it is important to the manufacture of these substances. This final rule subjects handlers of propionyl chloride to the chemical regulatory provisions of the CSA and its implementing regulations.

DATES: This rulemaking will become effective on April 9, 2026. Persons seeking registration must apply before April 9, 2026 to continue their business pending final action by DEA on their application.

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

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) is extremely concerned with the recent increase in the illicit manufacture and distribution of fentanyl. Therefore, on October 12, 2023, DEA published an Advanced Notice of Proposed Rulemaking (ANPRM) soliciting comments on the legitimate use of propionyl chloride in industry. On June 3, 2025, DEA published a Notice of Proposed Rulemaking (NPRM) to control the precursor chemical propionyl chloride as a list I chemical.¹ This rulemaking finalizes that NPRM.

This action subjects handlers of propionyl chloride to the chemical regulatory provisions of the Controlled Substances Act (CSA) and its implementing regulations. This rulemaking does not establish a threshold for domestic and international transactions of propionyl chloride. As such, all transactions involving propionyl chloride, regardless of size, shall be regulated and are subject to

control under the CSA. In addition, chemical mixtures containing propionyl chloride are not exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of propionyl chloride shall be regulated pursuant to the CSA.

Legal Authority

The CSA gives the Attorney General the authority to specify, by regulation, chemicals as list I chemicals.² A “list I chemical” is defined as “a chemical that is used in manufacturing a controlled substance in violation of [the CSA] and is important to the manufacture of the controlled substance.”³ The current list of all listed chemicals is published at 21 CFR 1310.02. Pursuant to 28 CFR 0.100(b), the Attorney General has delegated her authority to designate list I chemicals to the Administrator of DEA (Administrator). DEA regulations set forth the process by which DEA may add a chemical as a listed chemical. As set forth in 21 CFR 1310.02(c), the agency may do so by publishing a final rule in the **Federal Register** following a published NPRM with at least 30 days for public comments.

Background

The clandestine manufacture of fentanyl, fentanyl analogues, and fentanyl-related substances remains extremely concerning as the distribution of illicit fentanyl, fentanyl analogues, and fentanyl-related substances continues to drive drug-related overdose deaths in the United States. Fentanyl is a synthetic opioid and was first synthesized in Belgium in the late 1950s. Fentanyl was introduced into medical practice and is approved for medical practitioners in the United States to prescribe lawfully for anesthesia and analgesia. Yet, due to its pharmacological effects, fentanyl can be used as a substitute for heroin, oxycodone, and other opioids. Therefore, due to its currently accepted medical use in treatment in the United States, DEA controls fentanyl as a schedule II controlled substance despite its high potential for abuse and the possibility that abuse may lead to severe psychological or physical dependence.⁴ Moreover, there are a substantial number of fentanyl analogues and fentanyl-related substances that are being distributed on the illicit drug market. Illicit manufacturers attempt to utilize unregulated precursor chemicals

to evade law enforcement detection and precursor chemical controls to manufacture fentanyl, fentanyl analogues, and fentanyl-related substances. This strategy allows for the synthesis of a variety of fentanyl analogues and fentanyl-related substances by making slight modifications to the core fentanyl structure while maintaining the same synthetic methodology used to synthesize fentanyl, fentanyl analogues, and fentanyl-related substances.

The unlawful trafficking of fentanyl, fentanyl analogues, and fentanyl-related substances in the United States continues to pose an imminent hazard to the public safety. Since 2012, fentanyl has shown a dramatic increase in the illicit drug supply as a single substance, in mixtures with other illicit drugs (*i.e.*, heroin, cocaine, and methamphetamine), and in forms that mimic pharmaceutical preparations including prescription opiates.⁵

DEA has noted a significant increase in overdoses and overdose fatalities from fentanyl, fentanyl analogues, and fentanyl-related substances in the United States in recent years, with a slight decrease in 2023. According to the Centers for Disease Control and Prevention (CDC), opioids, mainly synthetic opioids (which include fentanyl), are predominantly responsible for drug overdose deaths in recent years. According to CDC WONDER,⁶ drug overdose deaths involving synthetic opioids (excluding methadone) in the United States increased from 36,359 in 2019 to 56,516 in 2020; 70,601 in 2021; and 73,838 in 2022 with only a slight decrease to 72,776 in 2023; and provisionally 48,018 in 2024.⁷ While the total number of overdose deaths have been declining (overdose deaths peaked in 2022 with 107,941 deaths; then decreased to

⁵ National Drug Threat Assessment 2025, Drug Enforcement Administration, May 2025.

⁶ Centers for Disease Control and Prevention, National Center for Health Statistics. National Vital Statistics System, Provisional Mortality on CDC WONDER Online Database. Data are from the final Multiple Cause of Death Files, 2018–2024, and from provisional data for years 2024–2025, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program. Accessed at <http://wonder.cdc.gov/mcd-icd10-provisional.html> on January 27, 2026.

⁷ Provisional counts in CDC Wonder are the counts of overdose deaths prior to being finalized for a calendar year. Provisional counts of deaths are underestimated relative to final counts. This is due to the many steps involved in reporting death certificate data. When a death occurs, a certifier (*e.g.* physician, medical examiner or coroner) will complete the death certificate with the underlying cause of death and any contributing causes of death. In some cases, laboratory tests or autopsy results may be required to determine the cause of death.

² 21 U.S.C. 802(34).

³ *Id.*

⁴ 21 U.S.C. 812(c) Schedule II(b)(6) and 21 CFR 1308.12(c).

¹ *Designation of Propionyl Chloride as a List I Chemical*, 90 FR 23483 (June 3, 2025).

105,007 in 2023; and provisionally decreased to 79,848 in 2024), opioids continue to be the drug class associated with the largest number of overdose deaths. Overdose fatalities involving synthetic opioids coincides with a

dramatic increase in law enforcement encounters of fentanyl, fentanyl analogues, and fentanyl-related substances. According to the National Forensic Laboratory Information System (NFLIS-Drug),⁸ reports from forensic

laboratories of drug items containing fentanyl, fentanyl analogues, and fentanyl-related substances increased dramatically since 2016, as shown in Table 1 (2025 data is still being reported).

TABLE 1—ANNUAL REPORTS OF FENTANYL AND SELECT FENTANYL ANALOGUES AND FENTANYL-RELATED SUBSTANCES IDENTIFIED IN DRUG ENCOUNTERS

Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025 *
Annual Fentanyl Reports	37,158	61,648	90,017	108,231	126,483	166,718	177,227	183,009	154,015	89,003
Annual Reports of select fentanyl analogues and fentanyl-related substances	7,625	22,072	16,163	20,935	8,005	26,691	30,978	21,511	20,205	7,616

Role of Propionyl Chloride in the Synthesis of Fentanyl

Fentanyl, fentanyl analogues, and fentanyl-related substances are not naturally occurring substances. As such, the manufacture of these substances requires them to be produced through synthetic organic chemistry. Synthetic organic chemistry is the process in which a new organic molecule is created through one chemical reaction or a series of chemical reactions, which involve precursor chemicals. Through chemical reactions, the chemical structures of precursor chemicals are modified in a desired fashion. These chemical reaction sequences, also known as synthetic pathways, are designed to create a desired substance. Several synthetic pathways to fentanyl, fentanyl analogues, and fentanyl-related substances have been identified in clandestine laboratory settings; these include the original “Janssen method,” the “Siegfried method,” and the “Gupta method.” In response to the illicit manufacture of fentanyl, fentanyl analogues, and fentanyl-related substances using these methods, DEA controlled *N*-phenethyl-4-piperidone (NPP);⁹ *N*-(1-benzylpiperidin-4-yl)-*N*-phenylpropionamide (benzylfentanyl) and its salts;¹⁰ *N*-phenylpiperidin-4-

amine (4-anilinopiperidine) including its amides, halides, carbamates, salts, and any combination thereof;¹¹ and 4-piperidone (piperidin-4-one) including its acetals, amides, carbamates, salts, and salts of acetals, amides, and carbamates, and any combination thereof¹² as list I chemicals. DEA also controls 4-anilino-*N*-phenethylpiperidine (ANPP)¹³ and *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl)¹⁴ as schedule II immediate precursors to fentanyl under the CSA.

Propionyl Chloride

The original published synthetic pathway to fentanyl, known as the Janssen method, involves the list I chemical benzylfentanyl and schedule II immediate precursor norfentanyl. In this synthetic pathway, benzylfentanyl, a list I chemical under the CSA,¹⁵ is synthesized by reacting propionyl chloride with 4-anilino-1-benzylpiperidine, which is then converted to norfentanyl, the schedule II immediate precursor to fentanyl in this synthetic pathway.¹⁶ Norfentanyl is then subjected to one simple chemical reaction to complete the synthesis of fentanyl. This synthetic pathway can also be easily modified to produce fentanyl analogues and fentanyl-related

substances. Propionyl chloride also serves as a precursor chemical in the Siegfried method. In this synthetic pathway, propionyl chloride is reacted with ANPP,¹⁷ the schedule II immediate precursor to fentanyl in the Siegfried method, to complete the synthesis of fentanyl. This synthetic pathway can also be easily modified to produce fentanyl analogues and fentanyl-related substances. In addition to the Janssen and Siegfried methods, clandestine manufacturers are using other methods to synthesize fentanyl, one of which is known as the Gupta method. In this synthetic pathway, 4-piperidone, a list I chemical under the CSA, is used to synthesize 4-anilinopiperidine, another list I chemical under the CSA,¹⁸ which serves as an alternative precursor chemical to NPP, a list I chemical, in the synthesis of ANPP, a schedule II immediate precursor to fentanyl albeit through a different synthetic process. The resulting ANPP is reacted with propionyl chloride to manufacture the schedule II controlled substance, fentanyl. This synthetic pathway can also be easily modified to produce fentanyl analogues and fentanyl-related substances.

Propionyl chloride is attractive to illicit manufacturers because there is a lack of regulations on this chemical, it

⁸ The National Forensic Laboratory Information System (NFLIS) represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by Federal, State and local forensic laboratories in the United States. While NFLIS-Drug data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. See *Schedules of Controlled Substances: Placement of Carisoprodol Into Schedule IV*, 76 FR 77330, 77332 (Dec. 12, 2011). NFLIS-Drug data was queried on January 8, 2026; *2025 data is still reporting.

⁹ *Control of a Chemical Precursor Used in the Illicit Manufacture of Fentanyl as a List I Chemical*, 72 FR 20039 (Apr. 23, 2007).

¹⁰ *Designation of Benzylfentanyl and 4-Anilinopiperidine, Precursor Chemicals Used in the Illicit Manufacture of Fentanyl, as List I Chemicals*, 85 FR 20822 (Apr. 15, 2020).

¹¹ *Designation of Benzylfentanyl and 4-Anilinopiperidine, Precursor Chemicals Used in the Illicit Manufacture of Fentanyl, as List I Chemicals*, 85 FR 20822 (Apr. 15, 2020).; See Also *Designation of Halides of 4-Anilinopiperidine as List I Chemicals*, 88 FR 74352 (Oct. 31, 2023).

¹² *Designation of 4-Piperidone as a List I Chemical*, 88 FR 21902–21910 (Apr. 12, 2023).

¹³ *Control of Immediate Precursor Used in the Illicit Manufacture of Fentanyl as a Schedule II Controlled Substance*, 75 FR 37295 (June 29, 2010).

¹⁴ *Control of the Immediate Precursor Norfentanyl Used in the Illicit Manufacture of Fentanyl as a Schedule II Controlled Substance*, 85 FR 21320 (Apr. 17, 2020).

¹⁵ See footnote 10.

¹⁶ See footnote 13.

¹⁷ See footnote 12.

¹⁸ *Designation of Benzylfentanyl and 4-Anilinopiperidine, Precursor Chemicals Used in the Illicit Manufacture of Fentanyl, as List I Chemicals*, 85 FR 20822 (May 15, 2020).

is readily available from chemical suppliers, and it can be easily used in many known synthetic pathways used for the illicit manufacture of fentanyl, fentanyl analogues, and fentanyl-related substances.

Comments Received in Response to the NPRM

In response to the June 3, 2025 NPRM, DEA received one comment in opposition to the control of propionyl chloride as a list I chemical. The commenter cited four areas of concern relating to the control of propionyl chloride.

Comment: The first concern the commenter raised was that controlling propionyl chloride as a list I chemical would disproportionately harm legitimate industries, specifically the pharmaceutical industry, the agrochemical industry, and other industries using it in their applications. The commenter mentioned propionyl chloride is used to synthesize vital medicines, it is an intermediate for crop protection agents, and can be used to produce dyes, textiles, and other products. The commenter also mentioned that even though norfentanyl is an immediate precursor to fentanyl, it was only controlled as a list II chemical, which is in stark contrast to what is being proposed for the control of propionyl chloride in list I.

DEA Response: DEA appreciates the commenter's concern for the industries that may be impacted by the control of propionyl chloride as a list I chemical. To properly assess the potential effects of controlling propionyl chloride, DEA published both an ANPRM and the NPRM. These two publications requested information from industries and allowed for any interested persons to comment with their concerns.

DEA is aware that propionyl chloride may be used as an intermediate in several industrial processes, including but not limited to the synthesis of dyes, pharmaceuticals (including fentanyl), and agricultural products. Designating propionyl chloride as a list I chemical does not preclude the use of propionyl chloride for end users (*i.e.*, those using it as an intermediate chemical or in chemical synthesis). DEA registration for list I chemicals is only for those who are manufacturing, distributing, importing, or exporting list I chemicals. It is not required for those doing synthesis, unless they are also participating in one of the forementioned activities that require registration. Therefore, unless the user is also manufacturing, distributing, importing, or exporting propionyl chloride, this action will not affect

industries that may be using propionyl chloride as an intermediate in synthesis. Any potential burdens on industry are outweighed by the public health and public safety benefits of listing propionyl chloride.

In regard to controlling propionyl chloride in list I compared to the placement of norfentanyl, norfentanyl is controlled in schedule II of the CSA as an immediate precursor to fentanyl. Requirements for controlled substances in schedules I–V of the CSA,¹⁹ including immediate precursors in schedule II, are more restrictive than that of chemicals listed in list I or list II of CSA.²⁰ Controlling propionyl chloride in list I would only require those who manufacture, distribute, import, or export propionyl chloride to register with DEA and maintain records. End users of propionyl chloride, unless they are engaged in one of the previous mentioned activities, would not be required to register with DEA. Therefore, industries who may be using propionyl chloride in legitimate industries will still be able to use propionyl chloride for research and industrial purposes and may not be required to register with DEA for the use of this chemical.

Comment: The commenter next voiced concern that this action exceeds DEA's authority and harms the U.S. economy. The commenter concluded that the United States is a net importer of propionyl chloride, and, therefore, DEA is attempting to regulate foreign commerce, which is an authority delegated exclusively to Congress.

DEA Response: DEA appreciates the commenter's concerns. In the CSA, Congress authorized the Attorney General to specify, by regulation, chemicals as list I chemicals.²¹ This authority has been delegated to the Administrator of DEA,²² and DEA regulations address how DEA may add and regulate a chemical as a list I chemical, including the importation of that chemical.²³ Listing a chemical in the CSA does not regulate foreign commerce.

Comment: The commenter claims that DEA's regulatory strategy is ineffective and counterproductive.

DEA Response: DEA is concerned with the abuse of illicitly manufactured fentanyl in the United States and believes this rule will help control the illicit manufacture of fentanyl.

¹⁹ 21 CFR 1301–1308; 21 CFR 1311–1312.

²⁰ 21 CFR 1309–1310; 21 CFR 1313.

²¹ 21 U.S.C. 802(34).

²² 28 CFR 0.100(b).

²³ See, *e.g.*, 21 CFR 1310.02(c) (adding a chemical); 21 CFR 1313.12–.17 (importation of listed chemicals).

Comment: Finally, the commenter claims that DEA's history undermines trust in its motives. Specifically, the commenter stated that DEA has a long and documented history of misconduct that calls into question its judgment and motives.

DEA Response: The comment about having trust in DEA's motives is outside the scope of this rule.

Chemical Mixtures of Propionyl Chloride

Under the rulemaking, chemical mixtures containing propionyl chloride are not exempt from regulatory requirements at any concentration, unless an application for exemption of a chemical mixture is submitted by a propionyl chloride manufacturer and the application is reviewed and accepted by DEA under 21 CFR 1310.13. The control of chemical mixtures containing any amount of propionyl chloride is necessary to prevent the extraction, isolation, and use of propionyl chloride in the illicit manufacture of fentanyl. This rule modifies the Table of Concentration Limits in 21 CFR 1310.12(c) to reflect the fact that chemical mixtures containing any amount of propionyl chloride are subject to the CSA chemical control provisions.

Application Process for Exemption of Chemical Mixtures

DEA has implemented an application process to exempt mixtures from the requirements of the CSA and its implementing regulations.²⁴ Manufacturers may apply for an automatic exemption for those mixtures that do not meet the criteria set forth in 21 CFR 1310.12(d). Pursuant to 21 CFR 1310.13(a), DEA may grant an exemption of a chemical mixture, by publishing a final rule in the **Federal Register**, if DEA determines that: (1) the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance, and (2) the listed chemical or chemicals cannot be readily recovered.

Requirements for Handling List I Chemicals

This final rule subjects propionyl chloride to all the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of list I chemicals. Upon the effective date of this rule, persons handling propionyl

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

chloride, including regulated chemical mixtures containing propionyl chloride, will be required to comply with list I chemical regulations, including the following:

1. *Registration.* Any person who manufactures, distributes, imports, or exports propionyl chloride, including chemical mixtures containing propionyl chloride, or proposes to engage in the manufacture, distribution, importation, or exportation of propionyl chloride, including chemical mixtures containing propionyl chloride, must obtain a registration pursuant to 21 U.S.C. 822, 823, 957, and 958. Regulations describing registration for list I chemical handlers are set forth in 21 CFR part 1309. DEA regulations require separate registrations for manufacturing, distributing, importing, and exporting of list I chemicals.²⁵ Further, a separate registration is required for each principal place of business at one general physical location where list I chemicals are manufactured, distributed, imported, or exported by a person.²⁶

DEA notes that under the CSA, “warehousemen” are not required to register and may lawfully possess list I chemicals, if the possession of those chemicals is in the usual course of business or employment. Under DEA implementing regulations, the warehouse in question must receive the list I chemical from a DEA registrant and shall only distribute the list I chemical back to the DEA registrant and registered location from which it was received. A warehouse that distributes list I chemicals to persons other than the registrant and registered location from which they were obtained is conducting distribution activities and is required to register as such.²⁷

Upon the effective date of this final rule, any person manufacturing, distributing, importing, or exporting propionyl chloride or a chemical mixture containing propionyl chloride will become subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who are subject to the registration requirements to immediately complete and submit an application for registration, and for DEA to immediately issue registrations for those activities. Therefore, to allow any continued legitimate commerce in propionyl chloride or a chemical mixture containing propionyl chloride, DEA is establishing in 21 CFR 1310.09, a temporary exemption from the

registration requirement for persons desiring to engage in activities with propionyl chloride or a chemical mixture containing propionyl chloride, provided that DEA receives a properly completed application for registration or application for exemption of a chemical mixture under 21 CFR 1310.13 on or before the effective date of this final rule. The temporary exemption for such persons will remain in effect until DEA takes final action on their application for registration or application for exemption of a chemical mixture.

The temporary exemption applies solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, will be effective on the effective date of the final rule. This is necessary because a delay in regulating these transactions could result in increased diversion of chemicals desirable to drug traffickers.

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

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

Each regulated bulk manufacturer of a listed chemical must submit manufacturing, inventory, and use data on an annual basis. Existing standard industry reports containing the required information are acceptable, provided the information is separate or readily retrievable from the report.²⁸

The CSA and its implementing regulations require that each regulated person must report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that a listed chemical will be used in violation of subchapter I of the CSA. In addition, regulated persons must report any proposed regulated transaction with a person whose description or other identifying characteristics DEA has previously furnished to the regulated person, any unusual or excessive loss or

disappearance of a listed chemical under the control of the regulated person, and any in-transit loss in which the regulated person is the supplier.²⁹

3. *Importation and Exportation.* All importation and exportation of propionyl chloride or a chemical mixture containing propionyl chloride must be done in compliance with 21 U.S.C. 957, 958, and 971 and in accordance with 21 CFR part 1313.

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

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

6. *Liability.* Any activity involving propionyl chloride not authorized by, or in violation of, the CSA, would be unlawful, and would subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Executive Orders 12866, 13563, 14192, and 14294

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

Section 3(f) of E.O. 12866 classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal

²⁵ 21 CFR 1309.21.

²⁶ 21 U.S.C. 822(e)(1) and 21 CFR 1309.23(a).

²⁷ 21 U.S.C. 822(a)(1).

²⁸ 21 CFR 1310.05(d).

²⁹ 21 U.S.C. 830(b) and 21 CFR 1310.05(a) and (b).

governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

DEA finds that propionyl chloride is used in the illicit manufacture of the controlled substances of fentanyl, fentanyl analogues, and fentanyl-related substances, and is important to the manufacture of these substances. The replacement chemical for propionyl chloride in the respective pathways is already a list I chemical. This final rule subjects handlers of propionyl chloride to the chemical regulatory provisions of the CSA and its implementing regulations. This final rule does not establish a threshold for domestic and international transactions of propionyl chloride. As such, all transactions of propionyl chloride, regardless of size, shall be regulated. In addition, chemical mixtures containing propionyl chloride are not exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of propionyl chloride shall be regulated pursuant to the CSA. Propionyl chloride will be subject to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of list I chemicals.

DEA evaluated the cost of this final rule. Due to many unknowns, DEA is unable to provide an estimated cost of this final rule; however, based on DEA's analysis, the Office of Information and Regulatory Affairs has determined that this final rule is not economically significant under section 3(f)(1) of E.O. 12866.

Costs

Propionyl chloride is used for the legitimate manufacturing of pharmaceutical fentanyl as well as clandestinely synthesized illicit fentanyl. DEA has searched information in the public domain for legitimate uses of propionyl chloride and has documented that propionyl chloride may be used as an intermediary chemical in several industries, including the production of fentanyl. However, this rule would only impose regulations on those who manufacture, distribute, import, or export propionyl chloride and not end users who are using the chemical as an intermediate.

The primary costs associated with this rule would be the annual registration fee for list I chemicals (\$3,699 for manufacturers and \$1,850 for distributors, importers, and exporters). DEA has identified 20 domestic distributors of propionyl chloride. Three are already registered to handle list I chemicals, and this rule will not have impacts on their operations. The remaining distributors will need to register with DEA and employ security and handling processes to continue supplying propionyl chloride. For the nonregistered suppliers, it is difficult to estimate the amount of propionyl chloride that they distribute. It is also common for these chemical distributors to have items in their catalog while not actually having any material level of sales. Hence, DEA expects the quantities of propionyl chloride distributed by nonregistered distributors to be much smaller compared to the registered distributors. These distributors are expected to choose the least cost option, and stop selling propionyl chloride, rather than incur the registration cost. DEA expects that the cost of foregone sales will be small; and thus, the cost of this rule is minimal. DEA requested public comments regarding this estimate, however no public comment was received during the notice and comment period regarding the costs to industry.

Benefits

Controlling propionyl chloride is expected to prevent, curtail, and limit the unlawful manufacture and distribution of the controlled substance, fentanyl, as well as fentanyl analogues and fentanyl-related substances. As a list I chemical, handling of propionyl chloride requires registration with DEA and various controls and monitoring as required by the CSA. This rule is also expected to assist in preventing the possible theft or diversion of propionyl chloride from any legitimate firms. DEA also believes control is necessary to prevent unscrupulous chemists from synthesizing propionyl chloride and selling it (as an unregulated material) through the internet and other channels, to individuals who may wish to acquire unregulated intermediary chemicals for the purpose of illicitly manufacturing fentanyl, fentanyl analogues, and fentanyl-related substances.

In summary, DEA conducted a qualitative analysis of this final rule. DEA believes any manufacturer or distributor that uses propionyl chloride for legitimate pharmaceutical fentanyl production already would be registered with DEA and have all security and other handling processes in place, such

that this regulation would result in minimal cost to those entities. Therefore, any potential cost as a result of this regulation is minimal.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

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

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rulemaking does not have tribal implications warranting the application of E.O. 13175. This final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, has reviewed this rule and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

As discussed above, with this rulemaking, propionyl chloride and chemical mixtures containing propionyl chloride will be subject to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of list I chemicals. This rulemaking will affect all business activities that handle propionyl chloride including manufacturers, distributors, importers, and exporters. DEA identified 20 domestic suppliers, 17 (85 percent) of which are not registered with DEA to handle list I chemicals. All non-registered entities will be affected by this rule and are small entities based on Small Business Administration classification for Other Chemical and

Allied Products Merchant Wholesalers (NAICS classification code 424690).³⁰

There are 8,804 small entities under 424690 Other Chemical and Allied Products Merchant Wholesalers.³¹ The number of small entities affected by this final rule is 0.19 percent of all the small businesses in this industry.³² Based on these factors, DEA projects that this rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995.³³ This action would not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. However, this rule requires compliance with the following existing OMB collections: 1117–0003, 1117–0004, 1117–0006, 1117–0008, 1117–0009, 1117–0010, 1117–0012, 1117–0014, 1117–0021, 1117–0023, 1117–0029, and 1117–0056. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 1310

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1310 as follows:

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

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

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

■ 2. In § 1310.02, add paragraph (a)(41) to read as follows:

§ 1310.02 Substances covered.

*	*	*	*	*
(a)	*	*	*	*
*	*	*	*	*
(41)	Propionyl chloride	.....	8337	
*	*	*	*	*

■ 3. In § 1310.04:

- a. Redesignate paragraphs (g)(1)(xix) and (g)(1)(xx) as paragraphs (g)(1)(xx) and (g)(1)(xxi), respectively; and
- b. Add new paragraph (g)(1)(xix).

The addition reads as follows:

§ 1310.04 Maintenance of records.

*	*	*	*	*
(g)	*	*	*	*
(1)	*	*	*	*
(xix)	Propionyl chloride			
*	*	*	*	*

■ 4. In § 1310.09, add paragraph (t) to read as follows:

§ 1310.09 Temporary exemption from registration.

*	*	*	*	*
(t)(1)	Each person required under 21 U.S.C. 822 and 21 U.S.C. 957 to obtain			

TABLE OF CONCENTRATION LIMITS

a registration to manufacture, distribute, import, or export propionyl chloride, including regulated chemical mixtures pursuant to § 1310.12, is temporarily exempted from the registration requirement, provided that DEA receives a properly completed application for registration or application for exemption for a chemical mixture containing propionyl chloride pursuant to § 1310.13 on or before 30 days after the publication of a rule finalizing this action. The exemption would remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in the Act and parts 1309, 1310, 1313, and 1316 of this chapter remain in full force and effect.

(2) Any person who manufactures, distributes, imports, or exports a chemical mixture containing propionyl chloride whose application for exemption is subsequently denied by DEA must obtain a registration with DEA. A temporary exemption from the registration requirement will also be provided for those persons whose application for exemption is denied, provided that DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has been denied. The temporary exemption for such persons would remain in effect until DEA takes final action on their registration application.

■ 5. In § 1310.12, table in paragraph (c) is amended by adding in alphabetical order an entry for “Propionyl chloride” to read as follows:

§ 1310.12 Exempt chemical mixtures.

*	*	*	*	*
(c)	*	*	*	*

DEA chemical code No.	Concentration	Special conditions
List I Chemicals		
*	*	*
Propionyl chloride	Not exempt at any concentration.	Chemical mixtures containing any amount of propionyl chloride are not exempt.

³⁰ U.S. Small Business Administration, Table of size standards, Version March 2023, Effective: March 17, 2023, <https://www.sba.gov/sites/sbagov/files/2023->

³¹ 2021 SUSB Annual Data Tables by Establishment Industry, <https://www.census.gov/data/tables/2021/econ/susb/2021-susb-annual.html>, accessed: 1/9/2024.

³² Assuming all of the 17 non-registered suppliers are small businesses, the percent of small businesses affected by this rule is $17/8,804 = 0.19\%$.

³³ 44 U.S.C. 3501 through 3521.

TABLE OF CONCENTRATION LIMITS—Continued

DEA chemical code No.	Concentration	Special conditions
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*
*	*	*

- ii. Pima County, Arizona;
 - iii. Santa Cruz County, Arizona; and
 - iv. Yuma County, Arizona;
- b. The following counties in Texas:
- i. Cameron County, Texas;
 - ii. El Paso County, Texas;
 - iii. Hidalgo County, Texas;
 - iv. Maverick County, Texas; and
 - v. Webb County, Texas;⁷
- b. The following counties in New Mexico:
- i. Bernalillo County, New Mexico;
 - ii. Dona Ana County, New Mexico;
 - iii. San Juan County, New Mexico;
- and
- c. The following ZIP Codes in California:
- i. 92231, 92249, 92281, and 92283 (Imperial County, California); and
 - ii. 91910, 92101, 92113, 92117, 92126, 92154, and 92173 (San Diego County, California).⁸
4. All terms used but not otherwise defined herein shall have the same meaning set forth in part 1010 of chapter X of subtitle B of title 31 of the Code of Federal Regulations.

B. Reports Required To Be Filed by the Covered Business

5. Except as otherwise set forth in this Order, if the Covered Business is involved in a Covered Transaction, then the Covered Business shall report the Covered Transaction to FinCEN on a Currency Transaction Report within 30 days following the day on which the Covered Transaction occurred. In the case of the U.S. Postal Service, the obligation contained in the preceding sentence shall not apply to payments or transfers made solely in connection with the purchase of postage or philatelic products.

Note: When submitting the report, the Covered Business may receive a warning that the transaction is below \$10,000. The Covered Business shall ignore the warning and continue with the submission.

6. Each report filed pursuant to this Order must be: (a) completed in accordance with the terms of this Order

and the Currency Transaction Report instructions (when those terms and those instructions conflict, the terms of this Order prevail); and (b) e-filed through the BSA E-Filing System.⁹

7. Before concluding a Covered Transaction, the Covered Business must comply with the identification requirements set forth at 31 CFR 1010.312, including the requirement that the specific identifying information (e.g., the account number of the credit card, the driver's license number) used in verifying the identity of the customer shall be recorded on the Currency Transaction Report, and the mere notation of "known customer" or "bank signature card on file" on the report is prohibited. For purposes of this requirement, the Covered Business need not identify employees of armored car services.

8. The Covered Business is not required to file a report otherwise required under this Order on a Covered Transaction between the Covered Business and a commercial bank.

9. Part IV of the Currency Transaction Report shall contain the following information in Field 45: "MSB0326GTO".

C. Order Period

The terms of this Order are effective beginning March 7, 2026 and ending on September 2, 2026. The compliance date for persons that were not Covered Businesses under the Geographic Targeting Order published by FinCEN on September 10, 2025 (90 FR 43557) is April 6, 2026.

D. Retention of Records

The Covered Business must: (a) retain all reports filed to comply with this Order and any other records relating to compliance with this Order for a period of five years from the last day that this Order is effective (including any renewals of this Order); (b) store all such records in a manner accessible within a reasonable period of time; and (c) make such records available to FinCEN, or any other appropriate law enforcement or regulatory agency, upon request, in accordance with applicable law.

⁹ To electronically file a Currency Transaction Report, a Covered Business will need a BSA E-Filing User account. To create a BSA E-Filing User account, please visit https://bsae filing.fincen.treas.gov/Enroll_Now.html. For more information on E-Filing, please visit <https://bsae filing.fincen.treas.gov/AboutBsa.html>.

E. No Effect on Other Provision of the BSA or Its Implementing Regulations

Nothing in this Order otherwise modifies or affects any provision of the BSA or the regulations implementing the BSA to the extent not expressly stated herein.

F. Confidentiality

This Order is being publicly issued, and its terms are not confidential.

G. Compliance

The Covered Business must supervise, and is responsible for, compliance by each of its officers, directors, employees, and agents with the terms of this Order. The Covered Business must transmit this Order to each of its agents located in the Covered Geographic Area. The Covered Business must also transmit this Order to its Chief Executive Officer or other similarly acting manager.

H. Penalties for Noncompliance

The Covered Business, and any of its officers, directors, employees, and agents, may be liable, without limitation, for civil or criminal penalties for violating any of the terms of this Order.

I. Validity of Order

Any judicial determination that any provision of this Order is invalid shall not affect the validity of any other provision of this Order, and each other provision shall thereafter remain in full force and effect. A copy of this Order carries the full force and effect of an original signed Order.

J. Paperwork Reduction Act

The collection of information subject to the Paperwork Reduction Act contained in this Order has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 1506-0056. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

K. Questions

All questions about the Order should be directed to FinCEN at <https://www.fincen.gov/contact>.

(Authority: 31 U.S.C. 5326)

Dated: March 6, 2026.

Andrea M. Gacki,
Director, Financial Crimes Enforcement Network.

[FR Doc. 2026-04641 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-02-P

⁷ As of this date, the government is enjoined from applying the Geographic Targeting Order of March 14, 2025, to certain MSBs in Texas. Thus, until the relevant injunctions are lifted, those MSBs are exempt from the definition of Covered Businesses for purposes of the requirements of this Order.

⁸ As of this date, the government is enjoined from applying the Geographic Targeting Order of March 14, 2025, to MSBs in Imperial County and San Diego County. Thus, until that injunction is lifted, MSBs in these counties are exempt from the definition of Covered Businesses for purposes of the requirements of this Order.

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 23–CRB–0012–WR (2026–2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)**AGENCY:** Copyright Royalty Board (CRB), Library of Congress.**ACTION:** Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the nonsubscription digital performance of sound recordings by commercial broadcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Effective March 10, 2026.

Applicability date: The regulations apply to the license period beginning January 1, 2026, and ending December 31, 2030.

ADDRESSES: *Docket:* For access to the docket, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23–CRB–0012–WR (2026–2030).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, at (202) 707–7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:**Background**

On May 16, 2025, the Copyright Royalty Judges (“Judges”) published a proposed rule governing the rates and terms for the digital performance of sound recordings by commercial broadcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030. 90 FR 20977. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange, Inc. (“SoundExchange”), and National Association of Broadcasters (“NAB”). Joint Motion to Adopt Partial Settlement, Docket No. 23–CRB–0012–WR (2026–2030). Those who would be bound by the terms, rates, or other determination set by the agreement were given the opportunity to comment and participants in the Web VI proceeding

were given the opportunity to object to any or all of the proposed regulations.

The Judges received one comment from David Powell, who is not a participant in the proceeding. While Mr. Powell's comment is largely incomprehensible, he appears to take issue with the fact that he was not provided leave to file an untimely petition to participate in the proceeding. He also appears to take issue with royalty distribution practices of SoundExchange.

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates,” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable licenses or otherwise contrary to statutory law. No Web VI participant has objected to the settlement. The Register of Copyrights has completed her review of the CRB's Final Rule for legal error, under 17 U.S.C. 803(f)(1)(D), and will not be issuing any corrections. In the absence of any objection from a participant, and in the absence of any cognizable indication that the Final Rule includes provisions that are contrary to the applicable licenses or otherwise contrary to statutory law, the provisions of 17 U.S.C. 801(b)(7)(A) direct the Judges to adopt the Final Rule. Therefore, the Judges adopt the terms and rates as proposed. The Judges find that under the circumstances of this proceeding and this settlement, adoption of the Final Rule is directed by the statute, and that such directed adoption is principally a ministerial function by the Judges.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

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

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Add subpart E to read as follows:

Subpart E—Nonsubscription Transmissions by Commercial Broadcasters

Sec.

380.40 Definitions.

380.41 Royalty fees for the public performance of sound recordings by Commercial Broadcasters making Nonsubscription Transmissions and for Ephemeral Recordings.

380.42 Making payment of royalty fees.

380.43 Delivering statements of account.

380.44 Distributing royalty fees.

380.45 Handling Confidential Information.

380.46 Auditing payments and distributions.

§ 380.40 Definitions.

In addition to the definitions in § 380.7, the following definitions apply for purposes of this subpart:

Collective means the collection and distribution organization that is designated by the Copyright Royalty Judges, which, for the current rate period, is SoundExchange, Inc.

Commercial Broadcaster is a Commercial Webcaster, a material part of the business of which consists of owning and operating one or more terrestrial AM or FM broadcast radio stations licensed as such by the Federal Communications Commission.

Commercial Webcaster means a Licensee, other than a Noncommercial Webcaster, Noncommercial Educational Webcaster, or Public Broadcaster, that makes Ephemeral Recordings and eligible Digital Audio Transmissions of sound recordings pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114(d)(2).

Copyright Owners means sound recording copyright owners, and rights owners under 17 U.S.C. 1401(l)(2), who are entitled to royalty payments made under this part pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114.

Digital Audio Transmission has the same meaning as in 17 U.S.C. 114(j)(5).

Eligible Transmission means a Nonsubscription Transmission made by a Licensee that is subject to licensing under 17 U.S.C. 114(d)(2) and the payment of royalties under this part.

Ephemeral Recording has the same meaning as in 17 U.S.C. 112.

Licensee means a Commercial Webcaster, a Noncommercial Webcaster, a Noncommercial Educational Webcaster, a Public Broadcaster, or any entity operating a noninteractive internet streaming service that has obtained a license under 17 U.S.C. 114 to make Eligible Transmissions and a license under 17 U.S.C. 112(e) to make Ephemeral Recordings to facilitate those Eligible Transmissions.

Noncommercial Educational Webcaster means a Noncommercial Educational Webcaster under subpart C of this part.

Noncommercial Webcaster has the same meaning as in 17 U.S.C. 114(f)(4)(E), but excludes a Noncommercial Educational Webcaster or Public Broadcaster.

Nonsubscription has the same meaning as in 17 U.S.C. 114(j)(9).

Payor means the entity required to make royalty payments to the Collective or the entity required to distribute royalty fees collected, depending on context. The Payor is:

- (1) A Licensee, in relation to the Collective; and
- (2) The Collective in relation to a Copyright Owner or Performer.

Performance means each instance in which any portion of a sound recording is publicly performed to a listener by means of a Digital Audio Transmission (e.g., the delivery of any portion of a single track from a compact disc or server copy to one listener), but excludes the following:

(1) A performance of a sound recording that does not require a license (e.g., a sound recording that is not subject to protection under title 17, United States Code);

(2) A performance of a sound recording for which the service has previously obtained a license from the Copyright Owner of such sound recording; and

(3) An incidental performance that both:

(i) Makes no more than incidental use of sound recordings including, but not limited to, brief musical transitions in and out of commercials or program segments, brief performances during news, talk and sports programming, brief background performances during disk jockey announcements, brief performances during commercials of sixty seconds or less in duration, or brief performances during sporting or other public events; and

(ii) Does not contain an entire sound recording, other than ambient music that is background at a public event, and does not feature a particular sound recording of more than thirty seconds

(as in the case of a sound recording used as a theme song).

Performers means the independent administrators identified in 17 U.S.C. 114(g)(2)(B) and (C) and the parties identified in 17 U.S.C. 114(g)(2)(D).

Public Broadcaster means a Public Broadcaster under subpart D of this part.

Qualified Auditor means an independent Certified Public Accountant.

Transmission has the same meaning as in 17 U.S.C. 114(j)(15).

§ 380.41 Royalty fees for the public performance of sound recordings by Commercial Broadcasters making Nonsubscription Transmissions and for Ephemeral Recordings.

(a) *Royalty fees.* During the period 2026–2030, royalty rates for Commercial Broadcasters making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114, and for Ephemeral Recordings of sound recordings made pursuant to 17 U.S.C. 112(e) to facilitate such transmissions, are as follows:

- (1) 2026: \$0.0028 per Performance;
- (2) 2027: \$0.0029 per Performance;
- (3) 2028: \$0.0030 per Performance;
- (4) 2029: \$0.0031 per Performance;
- and
- (5) 2030: \$0.0032 per Performance.

(b) *Minimum fee.* (1) Subject to paragraph (b)(2) of this section, Commercial Broadcasters making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 must pay the Collective a minimum fee as follows each year for each channel or station:

- (i) 2026: \$1,100;
- (ii) 2027: \$1,150;
- (iii) 2028: \$1,200;
- (iv) 2029: \$1,250; and
- (v) 2030: \$1,250.

(2) The Collective must apply the fee to the Commercial Broadcaster's account as credit towards any additional royalty fees that the Commercial Broadcaster may incur under this subpart in the same year. The fee is payable for each individual channel and each individual station maintained or operated by the Commercial Broadcaster and making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 during each calendar year or part of a calendar year during which it is a Licensee. The maximum aggregate minimum fee that a Commercial Broadcaster making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 must pay under this subpart in any calendar year is 100 multiplied by the applicable amount specified in

paragraph (b)(1) of this section. The minimum fee is nonrefundable.

(c) *Ephemeral Recordings royalty fees; allocation between Ephemeral Recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments under this subpart as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Commercial Broadcaster makes which are necessary and commercially reasonable for making noninteractive Nonsubscription Digital Audio Transmissions are included in the 5%.

§ 380.42 Making payment of royalty fees.

(a) *Payment to the Collective.* A Commercial Broadcaster must make the royalty payments due under this subpart to SoundExchange, Inc., which is the Collective designated by the Copyright Royalty Board to collect and distribute royalties under this subpart.

(b) *Monthly payments.* A Commercial Broadcaster must make royalty payments on a monthly basis. Payments, Statements of Account and Reports of Use are due on or before the 30th day after the end of the month in which the Commercial Broadcaster made Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114.

(c) *Minimum payments.* A Commercial Broadcaster must make any minimum annual payments due under this subpart by January 31 of the applicable license year. A Commercial Broadcaster that as of January 31 of any year has not made any Nonsubscription Digital Audio Transmissions or Ephemeral Recordings pursuant to the licenses in 17 U.S.C. 114 and/or 17 U.S.C. 112(e), but that begins making such transmissions after that date must make any payment due by the 30th day after the end of the month in which the Commercial Broadcaster commences making such transmissions.

(d) *Late fees.* (1) A Commercial Broadcaster must pay a late fee for each payment and each Statement of Account that the Collective receives after the due date. The late fee is 1.5% (or the highest lawful rate, whichever is lower) of the late payment amount per month, except as specified in paragraph (d)(2) of this section. The late fee for a late Statement of Account is 1.5% of the payment amount associated with the Statement of Account. Late fees accrue from the due date until the date that the Collective receives the late payment or late Statement of Account.

(2) In a case in which, pursuant to § 380.46(g), an auditor determines that a Commercial Broadcaster underpaid royalties pursuant to this subpart:

(i) The late fee applicable to the underpayment so discovered shall accrue at the rate of 1% (or the highest lawful rate, whichever is lower) of the underpayment amount per month during the period starting on the date that the relevant notice of intent to audit is filed with the Copyright Royalty Judges pursuant to § 380.46(c), and ending on the date that the auditor provides its written report pursuant to § 380.46(f);

(ii) The late fee applicable to the underpayment so discovered shall accrue at the rate provided in paragraph (d)(1) of this section at all other times between the due date and the date that the Collective receives the underpayment so discovered; and

(iii) The total amount of late fees applicable to the underpayment so discovered shall in no event exceed 75% of the principal amount of the underpayment so discovered.

(e) *Waiver of late fees.* The Collective may waive or lower late fees for immaterial or inadvertent failures of a Commercial Broadcaster to make a timely payment or submit a timely Statement of Account.

(f) *Notice regarding noncompliant Statements of Account.* If it is reasonably evident to the Collective that a timely-provided Statement of Account is materially noncompliant, the Collective must notify the Commercial Broadcaster within 90 days of discovery of the noncompliance.

(g) *Use of account numbers.* If the Collective notifies a Commercial Broadcaster of an account number to be used to identify its royalty payments for a particular service offering, the Commercial Broadcaster must include that account number on its check or check stub for any payment for that service offering made by check, in the identifying information for any payment for that service offering made by electronic transfer, in its statements of account for that service offering under § 380.43, and in the transmittal of its Reports of Use for that service offering under § 370.4 of this chapter.

§ 380.43 Delivering statements of account.

(a) *Statements of Account.* Any payment due under this part must be accompanied by a corresponding Statement of Account that must contain the following information:

(1) Such information as is necessary to calculate the accompanying royalty payment;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address (if any) and other contact information of the person to be contacted for information

or questions concerning the content of the Statement of Account;

(3) The account number assigned to the Licensee by the Collective for the relevant service offering (if the Licensee has been notified of such account number by the Collective);

(4) The signature of:

(i) The Licensee or a duly authorized agent of the Licensee;

(ii) A partner or delegate if the Licensee is a partnership; or

(iii) An officer of the corporation if the Licensee is a corporation.

(5) The printed or typewritten name of the person signing the Statement of Account;

(6) If the Licensee is a partnership or corporation, the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(7) A certification of the capacity of the person signing;

(8) The date of signature; and

(9) An attestation to the following effect: I, the undersigned owner/officer/partner/agent of the Licensee have examined this Statement of Account and hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence and that it fairly presents, in all material respects, the liabilities of the Licensee pursuant to 17 U.S.C. 112(e) and 114 and applicable regulations adopted under those sections.

(b) *Certification.* Licensee's Chief Financial Officer or, if Licensee does not have a Chief Financial Officer, a person authorized to sign Statements of Account for the Licensee, must submit a signed certification on an annual basis attesting that the Licensee's royalty statements for the prior year represent a true and accurate determination of the royalties due and that any method of allocation employed by Licensee was applied in good faith and in accordance with U.S. GAAP.

§ 380.44 Distributing royalty fees.

(a) *Distribution of royalties.* (1) The Collective must promptly distribute royalties received from Commercial Broadcasters to Copyright Owners and Performers that are entitled thereto, or to their designated agents. The Collective shall only be responsible for making distributions to those who provide the Collective with information as is necessary to identify and pay the correct recipient. The Collective must distribute royalties on a basis that values all Performances by a Commercial Broadcaster equally based upon the information provided under the Reports of Use requirements for Commercial Broadcasters pursuant to

§ 370.4 of this chapter and this subpart. In any case in which a Commercial Broadcaster has not provided a compliant Report of Use, whether for the current license period or otherwise, and the board of directors of the Collective determines that further efforts to seek the missing Report of Use from the Commercial Broadcaster would not be warranted, the Collective may distribute the royalties associated with the Commercial Broadcaster's missing Report of Use on the basis of Reports of Use for the corresponding calendar year filed by other Licensees.

(2) The Collective must use its best efforts to identify and locate Copyright Owners and featured artists in order to distribute royalties payable to them under 17 U.S.C. 112(e) and 114. Such efforts must include, but not be limited to, searches in Copyright Office public records and published directories of sound recording Copyright Owners.

(b) *Unclaimed funds.* If the Collective is unable to identify or locate a Copyright Owner or Performer who is entitled to receive a royalty distribution under this part, the Collective must retain the required payment in a segregated trust account for a period of three years from the date of the first distribution of royalties from the relevant payment by a Commercial Broadcaster. No claim to distribution shall be valid after the expiration of the three-year period. After expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3).

(c) *Retention of records.* Commercial Broadcasters shall keep and securely store complete and accurate books and records relating to payments of royalties under this subpart for a period of not less than the prior three calendar years, including all supporting documentation necessary to permit verification of the accuracy of their payments pursuant to § 380.46. On and after January 1, 2027, a Commercial Broadcaster using a third-party vendor for transmission of Performances licensed as Nonsubscription Digital Audio Transmissions pursuant to 17 U.S.C. 114 or reporting due pursuant to this subpart must comply with this requirement by either obtaining necessary data from its vendor on an ongoing basis or contractually requiring delivery of necessary data by its vendor in the event of verification pursuant to § 380.46. The Collective shall keep books and records relating to distributions of royalties for a period of not less than the prior three calendar years.

(d) *Designation of the Collective.* (1) The Judges designate SoundExchange,

Inc., as the Collective to receive Statements of Account and royalty payments from Commercial Broadcasters and to distribute royalty payments to each Copyright Owner and Performer (or their respective designated agents) entitled to receive royalties under 17 U.S.C. 112(e) or 114(g).

(2) If SoundExchange, Inc. should dissolve or cease to be governed by a board consisting of equal numbers of representatives of Copyright Owners and Performers, then it shall be replaced for the applicable royalty period by a successor Collective according to the following procedure:

(i) The nine Copyright Owner representatives and the nine Performer representatives on the SoundExchange board as of the last day preceding SoundExchange's cessation or dissolution shall vote by a majority to recommend that the Copyright Royalty Judges designate a successor and must file a petition with the Copyright Royalty Judges requesting that the Judges designate the named successor and setting forth the reasons therefor.

(ii) Within 30 days of receiving the petition, the Copyright Royalty Judges must issue an order designating the recommended Collective, unless the Judges find good cause not to make and publish the designation in the **Federal Register**.

§ 380.45 Handling Confidential Information.

(a) *Definition.* For purposes of this part, "Confidential Information" means the Statements of Account and any information contained therein, including the amount of royalty payments and the number of Performances, and any information pertaining to the Statements of Account reasonably designated as confidential by the party submitting the statement. Confidential Information does not include documents or information that at the time of delivery to the Collective is public knowledge. The party seeking information from the Collective based on a claim that the information sought is a matter of public knowledge shall have the burden of proving to the Collective that the requested information is in the public domain.

(b) *Use of Confidential Information.* The Collective may not use any Confidential Information for any purpose other than royalty collection and distribution and activities related directly thereto.

(c) *Disclosure of Confidential Information.* The Collective shall limit access to Confidential Information to:

(1) Those employees, agents, consultants, and independent contractors of the Collective, subject to an appropriate written confidentiality agreement, who are engaged in the collection and distribution of royalty payments hereunder and activities related directly thereto who require access to the Confidential Information for the purpose of performing their duties during the ordinary course of their work;

(2) A Qualified Auditor or outside counsel who is authorized to act on behalf of:

(i) The Collective with respect to verification of a Licensee's statement of account pursuant to this part; or

(ii) A Copyright Owner or Performer with respect to the verification of royalty distributions pursuant to this part;

(3) Copyright Owners and Performers, including their designated agents, whose works a Licensee used under the statutory licenses set forth in 17 U.S.C. 112(e) and 114 by the Licensee whose Confidential Information is being supplied, subject to an appropriate written confidentiality agreement, and including those employees, agents, consultants, and independent contractors of such Copyright Owners and Performers and their designated agents, subject to an appropriate written confidentiality agreement, who require access to the Confidential Information to perform their duties during the ordinary course of their work;

(4) Attorneys and other authorized agents of parties to proceedings under 17 U.S.C. 112 and 114, acting under an appropriate protective order.

(d) *Safeguarding Confidential Information.* The Collective and any person authorized to receive Confidential Information from the Collective must implement procedures to safeguard against unauthorized access to or dissemination of Confidential Information using a reasonable standard of care, but no less than the same degree of security that the recipient uses to protect its own Confidential Information or similarly sensitive information.

§ 380.46 Auditing payments and distributions.

(a) *General.* This section prescribes procedures by which any entity entitled to receive payment or distribution of royalties may verify payments or distributions by auditing the Payor. The Collective may audit a Commercial Broadcaster's payments of royalties to the Collective, and a Copyright Owner or Performer may audit the Collective's distributions of royalties to the Copyright Owner or Performer. Nothing

in this section shall preclude a verifying entity and the Payor from agreeing to verification methods in addition to or different from those set forth in this section.

(b) *Frequency of auditing.* The verifying entity may conduct an audit of each Payor only once a year for any or all of the prior three calendar years. A verifying entity may not audit records for any calendar year more than once.

(c) *Notice of intent to audit.* The verifying entity must file with the Copyright Royalty Judges a notice of intent to audit the Payor, which notice the Judges must publish in the **Federal Register** within 30 days of the filing of the notice. Simultaneously with the filing of the notice, the verifying entity must deliver a copy to the Payor.

(d) *The audit.* The audit must be conducted during regular business hours by a Qualified Auditor who is not retained on a contingency fee basis and is identified in the notice. The auditor shall determine the accuracy of royalty payments or distributions, including whether an underpayment or overpayment of royalties was made. An audit of books and records, including underlying paperwork, performed in the ordinary course of business according to generally accepted auditing standards by a Qualified Auditor, shall serve as an acceptable verification procedure for all parties with respect to the information that is within the scope of the audit.

(e) *Access to third-party records for audit purposes.* The Payor must use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit.

(f) *Duty of auditor to consult.* The auditor must produce a written report to the verifying entity. Before rendering the report, unless the auditor has a reasonable basis to suspect fraud on the part of the Payor, the disclosure of which would, in the reasonable opinion of the auditor, prejudice any investigation of the suspected fraud, the auditor must review tentative written findings of the audit with the appropriate agent or employee of the Payor in order to remedy any factual errors and clarify any issues relating to the audit; Provided that an appropriate agent or employee of the Payor reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit. The auditor must include in the written report information concerning the cooperation or the lack thereof of the employee or agent.

(g) *Audit results; underpayment or overpayment of royalties.* If the auditor

determines the Payor underpaid royalties, the Payor shall remit the amount of any underpayment determined by the auditor to the verifying entity, together with interest as specified in § 380.42(d). In the absence of mutually-agreed payment terms, which may, but need not, include installment payments, the Payor shall remit promptly to the verifying entity the entire amount of the underpayment determined by the auditor and the applicable late fees. If the auditor determines the Payor overpaid royalties, however, the verifying entity shall not be required to remit the amount of any overpayment to the Payor, and the Payor shall not seek by any means to recoup, offset, or take a credit for the overpayment, unless the Payor and the verifying entity have agreed otherwise.

(h) *Paying the costs of the audit.* The verifying entity must pay the cost of the verification procedure, unless the auditor determines that there was a net underpayment (*i.e.*, underpayments less any overpayments) of 10% or more, in which case the Payor must bear the reasonable, documented costs of the verification procedure, in addition to paying or distributing the amount of any underpayment.

(i) *Retention of audit report.* The verifying entity must retain the report of the audit for a period of not less than three years from the date of issuance.

Dated: February 26, 2026.

Trevor Jefferson,

Interim Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Robert R. Newlen,

Acting Librarian of Congress.

[FR Doc. 2026-04632 Filed 3-9-26; 8:45 am]

BILLING CODE 1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 23-CRB-0012-WR (2026-2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the digital performance of sound recordings by Educational Media Foundation and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period from January 1, 2026, through December 31, 2030.

DATES: Effective March 10, 2026.

Applicability date: The regulations apply to the license period beginning January 1, 2026, and ending December 31, 2030.

ADDRESSES: *Docket:* For access to the docket, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23-CRB-0012-WR (2026-2030).

FOR FURTHER INFORMATION CONTACT:

Anita Brown, CRB Program Specialist, at (202) 707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 2025, the Copyright Royalty Judges (“Judges”) published a proposed rule governing the rates and terms for the digital performance of sound recordings by Educational Media Foundation and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period from January 1, 2026, through December 31, 2030.90 FR 55821. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange and NRB Music Licensing Committee, Inc (“Settling Parties”), together with Educational Media Foundation. Joint Motion to Adopt Partial Settlement, Docket No. 23-CRB-0012-WR (2026-2030). Those who would be bound by the terms, rates, or other determination set by the agreement were given the opportunity to comment and participants in the Web VI proceeding were given the opportunity to object to any or all of the proposed regulations.

The Judges received no comments or objections in response to the December 4, 2025, **Federal Register** notice.

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates,” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the

provisions of the applicable licenses or otherwise contrary to statutory law. No Web VI participant has objected to the settlement. The Register of Copyrights has completed her review of the CRB’s Final Rule for legal error, under 17 U.S.C. 803(f)(1)(D), and will not be issuing any corrections. In the absence of any objection from a participant, and in the absence of any cognizable indication that the Final Rule includes provisions that are contrary to the applicable licenses or otherwise contrary to statutory law, the provisions of 17 U.S.C. 801(b)(7)(A) direct the Judges to adopt the Final Rule. Therefore, the Judges adopt the terms and rates as proposed. The Judges find that under the circumstances of this proceeding and this settlement, adoption of the Final Rule is directed by the statute, and that such directed adoption is principally a ministerial function by the Judges.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

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

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Add subpart F to read as follows:

Subpart F—Educational Media Foundation

Sec.

380.50 Definitions.

380.51 Royalty fees for Eligible

Transmissions of sound recordings and the making of Ephemeral Recordings.

380.52 Making payment of royalty fees.

380.53 Delivering statements of account.

380.54 Distributing royalty fees.

380.55 Handling Confidential Information.

380.56 Auditing payments and distributions.

§ 380.50 Definitions.

For purposes of this subpart, the following definitions apply:

Collective means the collection and distribution organization that is designated by the Copyright Royalty Judges, which, for the current rate period, is SoundExchange, Inc.

Copyright Owners means sound recording copyright owners, and rights

owners under 17 U.S.C. 1401(l)(2), who are entitled to royalty payments made under this subpart pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114.

Digital Audio Transmission has the same meaning as in 17 U.S.C. 114(j)(5).

Eligible Transmission means an “eligible nonsubscription transmission” as defined in 17 U.S.C. 114(j)(6) that is:

- (1) made by the Licensee;
- (2) subject to licensing under 17 U.S.C. 114(d)(2);
- (3) transmitted over the internet on a channel or station offered for streaming to any member of the public who chooses to listen and that provides only linear programming that is not personalized to any particular listener.

Ephemeral Recording has the same meaning as in 17 U.S.C. 112.

Licensee means Educational Media Foundation and its affiliated organizations under common control, including K–LOVE, Inc. and The Association for Community Education, Inc., so long as each of these organizations is a Noncommercial Webcaster.

Noncommercial Webcaster has the same meaning as in 17 U.S.C. 114(f)(4)(E)(i).

Nonsubscription has the same meaning as in 17 U.S.C. 114(j)(9).

Payor means the entity required to make royalty payments to the Collective or the entity required to distribute royalty fees collected, depending on context. The Payor is:

- (1) The Licensee, in relation to the Collective; and
- (2) The Collective in relation to a Copyright Owner or Performer.

Performance means each instance in which any portion of a sound recording is publicly performed to a listener by means of a Digital Audio Transmission (e.g., the delivery of any portion of a single track from a compact disc to one listener), but excludes the following:

- (1) A performance of a sound recording that does not require a license (e.g., a sound recording that is not subject to protection under title 17, United States Code);
- (2) A performance of a sound recording for which the Licensee has previously obtained a license from the Copyright Owner of such sound recording; and
- (3) An incidental performance that both:

(i) Makes no more than incidental use of sound recordings including, but not limited to, brief musical transitions in and out of commercials or program segments, brief performances during news, talk and sports programming, brief background performances during

disk jockey announcements, brief performances during commercials of sixty seconds or less in duration, or brief performances during sporting or other public events; and

- (ii) Does not contain an entire sound recording, other than ambient music that is background at a public event, and does not feature a particular sound recording of more than thirty seconds (as in the case of a sound recording used as a theme song).

Performers means the independent administrators identified in 17 U.S.C. 114(g)(2)(B) and (C) and the parties identified in 17 U.S.C. 114(g)(2)(D).

Qualified Auditor means an independent Certified Public Accountant.

§ 380.51 Royalty fees for Eligible Transmissions of sound recordings and the making of Ephemeral Recordings.

(a) *Royalty fees.* During the period 2026–2030, the Licensee’s royalty payment for all Eligible Transmissions made by the Licensee during each year, and for Ephemeral Recordings of sound recordings made pursuant to 17 U.S.C. 112(e) to facilitate such Eligible Transmissions, shall be as follows:

- (1) 2026: \$7,125,000.00 (\$593,750.00 per month);
- (2) 2027: \$7,410,000.00 (\$617,500.00 per month);
- (3) 2028: \$7,706,400.00 (\$642,200.00 per month);
- (4) 2029: \$8,014,656.00 (\$667,888.00 per month); and
- (5) 2030: \$8,335,242.24 (\$694,603.52 per month).

(b) *Allocation between Ephemeral Recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that the Licensee makes which are necessary and commercially reasonable for making Eligible Transmissions are included in the 5%.

(c) *Other Digital Audio Transmissions.* During the period 2026–2030, if the Licensee makes any Digital Audio Transmissions of sound recordings subject to licensing under 17 U.S.C. 114(d)(2) other than Eligible Transmissions, the provisions of subparts A and B of this part shall apply.

§ 380.52 Making payment of royalty fees.

(a) *Payment to the Collective.* The Licensee must make the royalty payments due under this part to SoundExchange, Inc., which is the Collective designated by the Copyright Royalty Board to collect and distribute royalties under this part.

(b) *Monthly payments.* The Licensee must make royalty payments on a monthly basis. Each month during the period 2026–2030, the Licensee shall pay one-twelfth of the annual royalty for the relevant year, as set forth in § 380.51(a). Each such payment shall be made on or before the fifteenth day of the month and shall be accompanied by a Statements of Account in accordance with § 380.53. Payments shall be made in U.S. dollars in accordance with wiring instructions that will be separately provided by the Collective from time to time.

(c) *Reports of Use.* The Licensee shall submit a single, monthly Report of Use, as described in 37 CFR 370.4, reflecting actual total Performances made by the Licensee and all of its affiliates, for all Eligible Transmissions and any other Digital Audio Transmissions it may make as a Noncommercial Webcaster pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114. Reports of Use are due on or before the 30th day after the end of the month in which the Licensee made Eligible Transmissions.

(d) *Late fees.* The Licensee must pay a late fee for each payment and each Statement of Account that the Collective receives after the due date. The late fee is 1.5% (or the highest lawful rate, whichever is lower) of the late payment amount per month. The late fee for a late Statement of Account is 1.5% of the payment amount associated with the Statement of Account. Late fees accrue from the due date until the date that the Collective receives the late payment or late Statement of Account.

(1) *Waiver of late fees.* The Collective may waive or lower late fees for immaterial or inadvertent failures of the Licensee to make a timely payment or submit a timely Statement of Account.

(2) *Notice regarding noncompliant Statements of Account.* If it is reasonably evident to the Collective that a timely-provided Statement of Account is materially noncompliant, the Collective must notify the Licensee within 90 days of discovery of the noncompliance.

(e) *Use of account numbers.* If the Collective notifies the Licensee of an account number to be used to identify its royalty payments for a particular service offering, the Licensee must include that account number in the identifying information for any payment for that service offering made by electronic transfer, in its Statements of Account for that service offering under § 380.53, and in the transmittal of its Reports of Use for that service offering under § 370.4 of this chapter.

§ 380.53 Delivering statements of account.

Statements of Account. Any payment due under this part must be accompanied by a corresponding Statement of Account that must contain the following information:

(1) The amount of the royalty payment and the month for which it is submitted;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address (if any) and other contact information of the person to be contacted for information or questions concerning the content of the Statement of Account;

(3) The account number assigned to the Licensee by the Collective for the relevant service offering (if the Licensee has been notified of such account number by the Collective);

(4) The signature of:

(i) The Licensee or a duly authorized agent of the Licensee;

(ii) A partner or delegate if the Licensee is a partnership; or

(iii) An officer of the corporation if the Licensee is a corporation.

(5) The printed or typewritten name of the person signing the Statement of Account;

(6) If the Licensee is a partnership or corporation, the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(7) A certification of the capacity of the person signing;

(8) The date of signature; and

(9) An attestation to the following effect: I, the undersigned owner/officer/partner/agent of the Licensee have examined this Statement of Account and hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence and that it fairly presents, in all material respects, the liabilities of the Licensee pursuant to 17 U.S.C. 112(e) and 114 and applicable regulations adopted under those sections.

(b) *Certification.* Licensee's Chief Financial Officer or, if Licensee does not have a Chief Financial Officer, a person authorized to sign Statements of Account for the Licensee, must submit a signed certification on an annual basis attesting that the Licensee's royalty statements for the prior year represent a true and accurate determination of the royalties due.

§ 380.54 Distributing royalty fees.

(a) *Distribution of royalties.* (1) The Collective must promptly distribute royalties received from the Licensee to Copyright Owners and Performers that are entitled thereto, or to their designated agents. The Collective shall

only be responsible for making distributions to those who provide the Collective with information as is necessary to identify and pay the correct recipient. The Collective must distribute royalties on a basis that values all Performances by the Licensee equally based upon the information provided under the Reports of Use requirements for the Licensee pursuant to § 370.4 of this chapter and this subpart. In any case in which the Licensee has not provided a compliant Report of Use within three years after the due date specified in Section 370.4(c), whether for the current license period or otherwise, and the board of directors of the Collective determines that further efforts to seek the missing Report of Use from the Licensee would not be warranted, the Collective may distribute the royalties associated with the Licensee's missing Report of Use on the basis of Reports of Use for the corresponding calendar year filed by other licensees.

(2) The Collective must use its best efforts to identify and locate Copyright Owners and featured artists in order to distribute royalties payable to them under 17 U.S.C. 112(e) and 114. Such efforts must include, but not be limited to, searches in Copyright Office public records and published directories of Copyright Owners.

(b) *Unclaimed funds.* If the Collective is unable to identify or locate a Copyright Owner or Performer who is entitled to receive a royalty distribution under this subpart, the Collective must retain the required payment in a segregated trust account for a period of three years from the date of the first distribution of royalties from the relevant payment by the Licensee. No claim to distribution shall be valid after the expiration of the three-year period. After expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3).

(c) *Retention of records.* The Licensee shall keep and securely store complete and accurate books and records relating to payments of royalties for a period of not less than the prior three calendar years, including all supporting documentation necessary to permit verification of the accuracy of its payments pursuant to § 380.51. The Collective shall keep books and records relating to distributions of royalties for a period of not less than the prior three calendar years.

(d) *Designation of the Collective.* (1) The Judges designate SoundExchange, Inc., as the Collective to receive Statements of Account and royalty payments from the Licensee and to

distribute royalty payments to each Copyright Owner and Performer (or their respective designated agents) entitled to receive royalties under 17 U.S.C. 112(e) or 114(g).

(2) If SoundExchange, Inc. should dissolve or cease to be governed by a board consisting of equal numbers of representatives of Copyright Owners and Performers, then it shall be replaced for the applicable royalty period by a successor Collective according to the following procedure:

(i) The nine Copyright Owner representatives and the nine Performer representatives on the SoundExchange board as of the last day preceding SoundExchange's cessation or dissolution shall vote by a majority to recommend that the Copyright Royalty Judges designate a successor and must file a petition with the Copyright Royalty Judges requesting that the Judges designate the named successor and setting forth the reasons therefore.

(ii) Within 30 days of receiving the petition, the Copyright Royalty Judges must issue an order designating the recommended Collective, unless the Judges find good cause not to make and publish the designation in the **Federal Register**.

§ 380.55 Handling Confidential Information.

(a) *Definition.* For purposes of this part, "Confidential Information" means the Statements of Account, any information contained therein, and any information pertaining to the Statements of Account reasonably designated as confidential by the party submitting the statement. Confidential Information does not include documents or information that at the time of delivery to the Collective is public knowledge. The party seeking information from the Collective based on a claim that the information sought is a matter of public knowledge shall have the burden of proving to the Collective that the requested information is in the public domain.

(b) *Use of Confidential Information.* The Collective may not use any Confidential Information for any purpose other than royalty collection and distribution and activities related directly thereto.

(c) *Disclosure of Confidential Information.* The Collective shall limit access to Confidential Information to:

(1) Those employees, agents, consultants, and independent contractors of the Collective, subject to an appropriate written confidentiality agreement, who are engaged in the collection and distribution of royalty payments hereunder and activities

related directly thereto who require access to the Confidential Information for the purpose of performing their duties during the ordinary course of their work;

(2) A Qualified Auditor or outside counsel who is authorized to act on behalf of:

(i) The Collective with respect to verification of the Licensee's statement of account pursuant to this part; or

(ii) A Copyright Owner or Performer with respect to the verification of royalty distributions pursuant to this part;

(3) Copyright Owners and Performers, including their designated agents, whose works the Licensee used under the statutory licenses set forth in 17 U.S.C. 112(e) and 114 by the Licensee whose Confidential Information is being supplied, subject to an appropriate written confidentiality agreement, and including those employees, agents, consultants, and independent contractors of such Copyright Owners and Performers and their designated agents, subject to an appropriate written confidentiality agreement, who require access to the Confidential Information to perform their duties during the ordinary course of their work;

(4) Attorneys and other authorized agents of parties to proceedings under 17 U.S.C. 112 and 114, acting under an appropriate protective order.

(d) *Safeguarding Confidential Information.* The Collective and any person authorized to receive Confidential Information from the Collective must implement procedures to safeguard against unauthorized access to or dissemination of Confidential Information using a reasonable standard of care, but no less than the same degree of security that the recipient uses to protect its own Confidential Information or similarly sensitive information.

§ 380.56 Auditing payments and distributions.

(a) *General.* This section prescribes procedures by which any entity entitled to receive payment or distribution of royalties may verify payments or distributions by auditing the Payor. The Collective may audit the Licensee's payments of royalties to the Collective, and a Copyright Owner or Performer may audit the Collective's distributions of royalties to the Copyright Owner or Performer. Nothing in this section shall preclude a verifying entity and the Payor from agreeing to verification methods in addition to or different from those set forth in this section.

(b) *Frequency of auditing.* The verifying entity may conduct an audit of each licensee only once a year for any

or all of the prior three calendar years. A verifying entity may not audit records for any calendar year more than once.

(c) *Notice of intent to audit.* The verifying entity must file with the Copyright Royalty Judges a notice of intent to audit the Payor, which notice the Judges must publish in the **Federal Register** within 30 days of the filing of the notice. Simultaneously with the filing of the notice, the verifying entity must deliver a copy to the Payor.

(d) *The audit.* The audit must be conducted during regular business hours by a Qualified Auditor who is not retained on a contingency fee basis and is identified in the notice. The auditor shall determine the accuracy of royalty payments or distributions, including whether an underpayment or overpayment of royalties was made. An audit of books and records, including underlying paperwork, performed in the ordinary course of business according to generally accepted auditing standards by a Qualified Auditor, shall serve as an acceptable verification procedure for all parties with respect to the information that is within the scope of the audit.

(e) *Access to third-party records for audit purposes.* The Payor must use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit.

(f) *Duty of auditor to consult.* The auditor must produce a written report to the verifying entity. Before rendering the report, unless the auditor has a reasonable basis to suspect fraud on the part of the Payor, the disclosure of which would, in the reasonable opinion of the auditor, prejudice any investigation of the suspected fraud, the auditor must review tentative written findings of the audit with the appropriate agent or employee of the Payor in order to remedy any factual errors and clarify any issues relating to the audit; Provided that an appropriate agent or employee of the Payor reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit. The auditor must include in the written report information concerning the cooperation or the lack thereof of the employee or agent.

(g) *Audit results; underpayment or overpayment of royalties.* If the auditor determines the Payor underpaid royalties, the Payor shall remit the amount of any underpayment determined by the auditor to the verifying entity, together with interest at the rate specified in § 380.2(d). In the absence of mutually-agreed payment terms, which may, but need not, include

installment payments, the Payor shall remit promptly to the verifying entity the entire amount of the underpayment determined by the auditor. If the auditor determines the Payor overpaid royalties, however, the verifying entity shall not be required to remit the amount of any overpayment to the Payor, and the Payor shall not seek by any means to recoup, offset, or take a credit for the overpayment, unless the Payor and the verifying entity have agreed otherwise.

(h) *Paying the costs of the audit.* The verifying entity must pay the cost of the verification procedure, unless the auditor determines that there was a net underpayment (*i.e.*, underpayments less any overpayments) of 10% or more, in which case the Payor must bear the reasonable costs of the verification procedure, in addition to paying or distributing the amount of any underpayment.

(i) *Retention of audit report.* The verifying party must retain the report of the audit for a period of not less than three years from the date of issuance.

Dated: February 25, 2026.

Trevor Jefferson,
Interim Chief Copyright Royalty Judge.

David R. Strickler,
Copyright Royalty Judge.

Steve Ruwe,
Copyright Royalty Judge.

Approved by:

Robert R. Newlen,
Acting Librarian of Congress.

[FR Doc. 2026-04631 Filed 3-9-26; 8:45 am]

BILLING CODE 1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 23-CRB-0012-WR (2026-2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the digital performance of sound recordings by certain public radio stations and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Effective March 10, 2026.

Applicability date: The regulations apply to the license period beginning January 1, 2026, and ending December 31, 2030.

ADDRESSES: Docket: For access to the docket, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23-CRB-0012-WR (2026–2030).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, at (202) 707–7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 2025, the Copyright Royalty Judges (“Judges”) published a proposed rule governing the rates and terms for the digital performance of sound recordings by certain public radio stations and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030. 90 FR 20982. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange, Inc. (“SoundExchange”), and National Public Radio, Inc. (“NPR”), and the Corporation for Public Broadcasting (“CPB”). Joint Motion to Adopt Partial Settlement, Docket No. 23-CRB-0012-WR (2026–2030). Those who would be bound by the terms, rates, or other determination set by the agreement were given the opportunity to comment and participants in the Web VI proceeding were given the opportunity to object to any or all of the proposed regulations.

The Judges received one comment from David Powell, who is not a participant in the proceeding. While Mr. Powell’s comment is largely incomprehensible, he appears to take issue with the fact that he was not provided leave to file an untimely petition to participate in the proceeding. He also appears to take issue with royalty distribution practices of SoundExchange.

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates,” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable licenses or

otherwise contrary to statutory law. No Web VI participant has objected to the settlement. The Register of Copyrights has completed her review of the CRB’s Final Rule for legal error, under 17 U.S.C. 803(f)(1)(D), and will not be issuing any corrections. In the absence of any objection from a participant, and in the absence of any cognizable indication that the Final Rule includes provisions that are contrary to the applicable licenses or otherwise contrary to statutory law, the provisions of 17 U.S.C. 801(b)(7)(A) direct the Judges to adopt the Final Rule. Therefore, the Judges adopt the terms and rates as proposed. The Judges find that under the circumstances of this proceeding and this settlement, adoption of the Final Rule is directed by the statute, and that such directed adoption is principally a ministerial function by the Judges.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

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

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

- 2. Revise subpart D to read as follows:

Subpart D—Public Broadcasters

Sec.

380.30 Definitions.

380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

380.32 Terms for making payment of royalty fees and statements of account.

§ 380.30 Definitions.

For purposes of this subpart, the following definitions apply:

Authorized website is any website operated by or on behalf of any Public Broadcaster that is accessed by website Users through a Uniform Resource Locator (“URL”) owned by such Public Broadcaster and through which website Performances are made by such Public Broadcaster.

CPB is the Corporation for Public Broadcasting.

Music ATH is Aggregate Tuning Hours of website Performances of sound recordings of musical works.

NPR is National Public Radio, Inc.

Originating Public Radio Station is a noncommercial terrestrial radio broadcast station that—

(1) Is licensed as such by the Federal Communications Commission;

(2) Originates programming and is not solely a repeater station;

(3) Is a member or affiliate of NPR, American Public Media, Public Radio International, or Public Radio Exchange, a member of the National Federation of Community Broadcasters, or another public radio station that is qualified to receive funding from CPB pursuant to its criteria;

(4) Qualifies as a “noncommercial webcaster” under 17 U.S.C. 114(f)(4)(E)(i); and

(5) Either—

(i) Offers website Performances only as part of the mission that entitles it to be exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501); or

(ii) In the case of a governmental entity (including a Native American Tribal governmental entity), is operated exclusively for public purposes.

Person is a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, any governmental authority or any other entity or organization.

Public Broadcasters are NPR, American Public Media, Public Radio International, and Public Radio Exchange, and up to 530 Originating Public Radio Stations as named by CPB. CPB shall notify SoundExchange annually of the eligible Originating Public Radio Stations to be considered Public Broadcasters per this definition (subject to the numerical limitations set forth in this definition). The number of Originating Public Radio Stations treated per this definition as Public Broadcasters shall not exceed 530 for a given year without SoundExchange’s express written approval, except that CPB shall have the option to increase the number of Originating Public Radio Stations that may be considered Public Broadcasters as provided in § 380.31(d).

Side Channel is any internet-only program available on an Authorized website or an archived program on such Authorized website that, in either case, conforms to all applicable requirements under 17 U.S.C. 114.

Term is the period January 1, 2026, through December 31, 2030.

Website is a site located on the World Wide Web that can be located by a website User through a principal URL.

Website Performances are all public performances by means of digital audio transmissions of sound recordings, including the transmission of any portion of any sound recording, made through an Authorized website in accordance with all requirements of 17 U.S.C. 114, from servers used by a Public Broadcaster (provided that the Public Broadcaster controls the content of all materials transmitted by the server), or by a contractor authorized pursuant to § 380.31(g), that consist of either the retransmission of a Public Broadcaster's over-the-air terrestrial radio programming or the digital transmission of nonsubscription Side Channels that are programmed and controlled by the Public Broadcaster; provided, however, that a Public Broadcaster may limit access to an Authorized website, or a portion thereof, or any content made available thereon or functionality thereof, solely to website Users who are contributing members of a Public Broadcaster. This term does not include digital audio transmissions made by any other means.

Website Users are all those who access or receive website Performances or who access any Authorized website.

§ 380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Royalty fees.* The total license fee for all website Performances by Public Broadcasters during each year of the Term, up to the total Music ATH limit set forth in paragraph (b) of this section, and Ephemeral Recordings made by Public Broadcasters solely to facilitate such website Performances, shall be as follows (the "License Fee"), unless additional payments are required as described in paragraph (d) of this section:

- (1) 2026: \$950,000;
- (2) 2027: \$975,000;
- (3) 2028: \$1,000,000;
- (4) 2029: \$1,025,000; and
- (5) 2030: \$1,050,000.

(b) *ATH limit.* The total Music ATH limit is 310,000,000 Music ATH per year.

(c) *Calculation of License Fee.* It is understood that the License Fee includes:

- (1) An annual minimum fee for each Public Broadcaster for each year during the Term;
- (2) Additional usage fees for certain Public Broadcasters; and
- (3) A discount that reflects the administrative convenience to the Collective (for purposes of this subpart, the term "Collective" refers to SoundExchange, Inc.) of receiving consolidated reporting of usage in

accordance with § 380.32(b) that covers a large number of separate entities and annual lump sum payments that cover a large number of separate entities, as well as the predictability, time value of money and protection from bad debt that arises from being paid in advance.

(d) *Increase in Public Broadcasters.* If the total number of Originating Public Radio Stations that wish to make website Performances in any calendar year exceeds the number of such Originating Public Radio Stations considered Public Broadcasters in the relevant year, and the excess Originating Public Radio Stations do not wish to pay royalties for such website Performances apart from this subpart, CPB may elect by written notice to the Collective to increase the number of Originating Public Radio Stations considered Public Broadcasters in the relevant year effective as of the date of the notice. To the extent of any such elections, CPB shall make an additional payment to the Collective for each calendar year or part thereof it elects to have an additional Originating Public Radio Station considered a Public Broadcaster, in the amount of the annual minimum fee applicable to Noncommercial Webcasters under subpart B of this part for each additional Originating Public Radio Station per year. Such payment shall accompany the notice electing to have an additional Originating Public Radio Station considered a Public Broadcaster.

(e) *Ephemeral Recordings royalty fees; allocation between Ephemeral Recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments under this subpart as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making noninteractive digital transmissions are included in the 5%.

(f) *Effect of non-performance by any Public Broadcaster.* In the event that any Public Broadcaster violates any of the material provisions of 17 U.S.C. 112(e) or 114 or this subpart that it is required to perform, the remedies of the Collective shall be specific to that Public Broadcaster only, and shall include, without limitation, termination of that Public Broadcaster's right to be treated as a Public Broadcaster per this paragraph (f) upon written notice to CPB. The Collective and Copyright Owners also shall have whatever rights may be available to them against that Public Broadcaster under applicable law. The Collective's remedies for such a breach or failure by an individual Public Broadcaster shall not include

termination of the rights of other Public Broadcasters to be treated as Public Broadcasters per this paragraph (f), except that if CPB fails to pay the License Fee or otherwise fails to perform any of the material provisions of this subpart, or such a breach or failure by a Public Broadcaster results from CPB's inducement, and CPB does not cure such breach or failure within 30 days after receiving notice thereof from the Collective, then the Collective may terminate the right of all Public Broadcasters to be treated as Public Broadcasters per this paragraph (f) upon written notice to CPB. In such a case, a prorated portion of the License Fee for the remainder of the Term (to the extent paid by CPB) shall, after deduction of any damages payable to the Collective by virtue of the breach or failure, be credited to statutory royalty obligations of Public Broadcasters to the Collective for the Term as specified by CPB.

(g) *Use of contractors.* The right to rely on this subpart is limited to Public Broadcasters, except that a Public Broadcaster may employ the services of a third Person to provide the technical services and equipment necessary to deliver website Performances on behalf of such Public Broadcaster, but only through an Authorized website. Any agreement between a Public Broadcaster and any third Person for such services shall:

(1) Obligate such third Person to provide all such services in accordance with all applicable provisions of the statutory licenses and this subpart;

(2) Specify that such third Person shall have no right to make website Performances or any other performances or Ephemeral Recordings on its own behalf or on behalf of any Person or entity other than a Public Broadcaster through the Public Broadcaster's Authorized website by virtue of its services for the Public Broadcaster, including in the case of Ephemeral Recordings, pre-encoding or otherwise establishing a library of sound recordings that it offers to a Public Broadcaster or others for purposes of making performances, but instead must obtain all necessary licenses from the Collective, the copyright owner or another duly authorized Person, as the case may be;

(3) Specify that such third Person shall have no right to grant any sublicenses under the statutory licenses; and

(4) Provide that the Collective is an intended third-party beneficiary of all such obligations with the right to enforce a breach thereof against such third Person.

§ 380.32 Terms for making payment of royalty fees and statements of account.

(a) *Payment to the Collective.* Except as provided in paragraphs (a)(1) through (3) of this section, CPB shall pay the License Fee to the Collective in the annual installments specified in § 380.31(a), which shall be due in advance on December 31, 2025, and annually thereafter through December 31, 2029.

(1) *CPB inability to pay.* If, due to a significant decrease in U.S. government funding for CPB as compared to years prior to the Term, CPB reasonably concludes that it is impossible for CPB to pay the License Fee for a particular year during the Term, CPB may by written notice to the Collective prior to December 1 of the preceding year nominate NPR or a third party to pay the License Fee for such year. In such a case, if by December 15 of the preceding year, NPR or such third party agrees by written notice to the Collective to assume CPB's obligation to pay the License Fee for such year, NPR or such third party shall do so by December 31 of the preceding year.

(2) *Dissolution of CPB.* If CPB ceases to exist, and if NPR or any successor to CPB's mission or other third party agrees by written notice to the Collective to assume CPB's obligation to pay the License Fee for the remaining years of the Term, NPR or such successor shall do so by December 31 preceding each remaining year of the Term. In such a case, NPR or such successor or other third party shall exercise all the rights of CPB under this subpart (e.g., identifying the eligible Originating Public Radio Stations to be considered Public Broadcasters), and must exercise all the responsibilities of CPB under this subpart (e.g., providing reporting in accordance with paragraph (b) of this section).

(3) *Consequence of nonpayment.* If the Collective does not receive the License Fee for any year of the Term by December 31 of the preceding year, then the provisions of this subpart shall be unavailable to Public Broadcasters for such year, and any Public Broadcaster making website Performances and related Ephemeral Recordings during such year must pay applicable royalty fees, and comply with applicable statutory license terms, under subparts A and B of this part, except that if the Copyright Royalty Judges have adopted pursuant to 17 U.S.C. 801(b)(7)(A) a lower per-Performance rate for Nonsubscription transmissions by some other group of Licensees during such year, such lower per-Performance rate will apply to website Performances by Public Broadcasters during such year in

any situation in which a per-Performance royalty is payable under subparts A and B of this part.

(b) *Reporting.* CPB and Public Broadcasters shall submit reports of use and other information concerning website Performances as agreed upon with the Collective.

(c) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this subpart shall be those set forth in subpart A of this part.

Dated: February 25, 2026.

Trevor Jefferson,

Interim Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Robert R. Newlen,

Acting Librarian of Congress.

[FR Doc. 2026-04633 Filed 3-9-26; 8:45 am]

BILLING CODE 1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 23-CRB-0012-WR (2026-2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the digital performance of sound recordings by noncommercial educational webcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Effective March 10, 2026.

Applicability date: The regulations apply to the license period beginning January 1, 2026, and ending December 31, 2030.

ADDRESSES: *Docket:* For access to the docket, go to eCRB, the Copyright

Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23-CRB-0012-WR (2026-2030).

FOR FURTHER INFORMATION CONTACT:

Anita Brown, CRB Program Specialist, at (202) 707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2024, the Copyright Royalty Judges ("Judges") published a proposed rule governing the rates and terms for the digital performance of sound recordings by noncommercial educational webcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030. 89 FR 82543. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange, Inc. ("SoundExchange") and College Broadcasters Inc. ("CBI"). Joint Motion to Adopt Partial Settlement, Docket No. 23-CRB-0012-WR (2026-2030). Those who would be bound by the terms, rates, or other determination set by the agreement were given the opportunity to comment and participants in the Web VI proceeding were given the opportunity to object to any or all of the proposed regulations.

The Judges received one comment from Michael Ravnitzky. Mr. Ravnitzky suggests additional definitions for Aggregate Tuning Hours and Proxy Fee be added to section 380.20. Mr. Ravnitzky is not a participant in the Web VI proceeding and does not indicate whether he "would be bound by the terms, rates, or other determination set by the agreement." In any event, Aggregate Tuning Hours and Proxy Fee are defined elsewhere in Part 380. Mr. Ravnitzky's comment does not provide a basis for not adopting the proposed regulations.

The Judges "may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement," only "if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates," 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable licenses or otherwise contrary to statutory law. No Web VI participant has objected to the settlement. The Register of Copyrights

has completed her review of the CRB's Final Rule for legal error, under 17 U.S.C. 803(f)(1)(D), and will not be issuing any corrections. In the absence of any objection from a participant, and in the absence of any cognizable indication that the Final Rule includes provisions that are contrary to the applicable licenses or otherwise contrary to statutory law, the provisions of 17 U.S.C. 801(b)(7)(A) direct the Judges to adopt the Final Rule. Therefore, the Judges adopt the terms and rates as proposed. The Judges find that under the circumstances of this proceeding and this settlement, adoption of the Final Rule is directed by the statute, and that such directed adoption is principally a ministerial function by the Judges.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges revise 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

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

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Revise subpart C to read as follows:

Subpart C—Noncommercial Educational Webcasters

Sec.

380.20 Definitions.

380.21 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

380.22 Terms for making payment of royalty fees and statements of account.

§ 380.20 Definitions.

For purposes of this subpart, the following definitions apply, as well as those set forth in subpart A of this part:

Educational Transmission means an eligible nonsubscription transmission (as defined in 17 U.S.C. 114(j)(6)) made by a Noncommercial Educational Webcaster over the internet.

Noncommercial Educational Webcaster means a noncommercial webcaster (as defined in 17 U.S.C. 114(f)(4)(E)(i)) that:

(1) Has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to

make Educational Transmissions and related Ephemeral Recordings;

(2) Complies with all applicable provisions of Sections 112(e) and 114 and applicable regulations in this part;

(3) Is directly operated by, or is affiliated with and officially sanctioned by, and the digital audio transmission operations of which are staffed substantially by students enrolled at, a domestically accredited primary or secondary school, college, university or other post-secondary degree-granting educational institution;

(4) Is not a “public broadcasting entity” (as defined in 17 U.S.C. 118(f)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to its criteria; and

(5) Takes affirmative steps not to make total transmissions in excess of 160,000 Aggregate Tuning Hours (ATH) on any individual channel or station in any month, if in any previous calendar year it has made total transmissions in excess of 160,000 ATH on any individual channel or station in any month.

§ 380.21 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Minimum fee for eligible Noncommercial Educational Webcasters.* Each Noncommercial Educational Webcaster that did not exceed 160,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and does not expect to make total transmissions in excess of 160,000 ATH on any individual channel or station in any calendar month during the applicable calendar year shall pay an annual, nonrefundable minimum fee in the amount set forth in paragraphs (a)(1) through (5) of this section (the “Minimum Fee”) for each of its individual channels, including each of its individual side channels, and each of its individual stations, through which (in each case) it makes Educational Transmissions, for each calendar year it makes Educational Transmissions subject to this subpart. For clarity, each individual stream (e.g., HD radio side channels, different stations owned by a single licensee) will be treated separately and be subject to a separate Minimum Fee. However, all of the streams of Digital Audio Transmissions of music programming by a Noncommercial Educational Webcaster, or by a group of affiliated Noncommercial Educational Webcasters, that are the same or have only immaterial variations (e.g., differences in station identification,

acknowledgement of sponsors or occasional substitute programming) shall be treated as part of one channel or station for purposes of this section. For this purpose, two Noncommercial Educational Webcasters shall be considered affiliates if one is controlling, controlled by, or under common control with the other. This principle applies whether the streams are offered from only a single outlet or through multiple outlets (e.g., websites, broadcast radio station simulcasts, aggregators, mobile applications or other online locations where listeners can access music streaming). The Minimum Fee shall constitute the annual per channel or per station royalty for all Educational Transmissions totaling not more than 160,000 ATH in a month on any individual channel or station, and for Ephemeral Recordings to enable such Educational Transmissions. In addition, a Noncommercial Educational Webcaster electing the reporting waiver described in § 380.22(d)(1) shall pay a \$100 annual fee (the “Proxy Fee”) to the Collective (for purposes of this subpart, the term “Collective” refers to SoundExchange, Inc.). The Minimum Fee for each year of the royalty period is:

- (1) 2026: \$800;
- (2) 2027: \$850;
- (3) 2028: \$900;
- (4) 2029: \$950; and
- (5) 2030: \$1,000.

(b) *Consequences of unexpectedly exceeding the ATH cap.* In the case of a Noncommercial Educational Webcaster eligible to pay royalties under paragraph (a) of this section that unexpectedly makes total transmissions in excess of 160,000 ATH on any individual channel or station in any calendar month during the applicable calendar year:

(1) The Noncommercial Educational Webcaster shall, for such month and the remainder of the calendar year in which such month occurs, pay royalties in accordance, and otherwise comply, with the provisions of subpart B of this part applicable to Noncommercial Webcasters;

(2) The Minimum Fee paid by the Noncommercial Educational Webcaster for such calendar year will be credited to the amounts payable under the provisions of subpart B of this part applicable to Noncommercial Webcasters; and

(3) The Noncommercial Educational Webcaster shall, within 30 days after the end of each month, notify the Collective if it has made total transmissions in excess of 160,000 ATH on a channel or station during that month; pay the Collective any amounts due under the

provisions of subpart B of this part applicable to Noncommercial Webcasters; and provide the Collective a statement of account pursuant to subpart A of this part.

(c) *Royalties for other Noncommercial Educational Webcasters.* A Noncommercial Educational Webcaster that is not eligible to pay royalties under paragraph (a) of this section shall pay royalties in accordance, and otherwise comply, with the provisions of subpart B of this part applicable to Noncommercial Webcasters.

(d) *Estimation of performances.* In the case of a Noncommercial Educational Webcaster that is required to pay royalties under paragraph (b) or (c) of this section on a per-Performance basis, that is unable to calculate actual total Performances, and that is not required to report actual total performances under § 380.22(d)(3), the Noncommercial Educational Webcaster may pay its applicable royalties on an ATH basis, provided that the Noncommercial Educational Webcaster shall calculate such royalties at the applicable per-Performance rates based on the assumption that the number of sound recordings performed is 12 per hour. The Collective may distribute royalties paid on the basis of ATH hereunder in accordance with its generally applicable methodology for distributing royalties paid on such basis. In addition, and for the avoidance of doubt, a Noncommercial Educational Webcaster offering more than one channel or station shall pay per-Performance royalties on a per-channel or -station basis.

(e) *Allocation between ephemeral recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making Educational Transmissions are included in the 5%.

§ 380.22 Terms for making payment of royalty fees and statements of account.

(a) *Payment to the Collective.* A Noncommercial Educational Webcaster shall make the royalty payments due under § 380.21 to the Collective.

(b) *Minimum fee.* Noncommercial Educational Webcasters shall submit the Minimum Fee, and Proxy Fee if applicable (see paragraph (d) of this section), accompanied by a statement of account, by January 31st of each calendar year, except that payment of the Minimum Fee, and Proxy Fee if applicable, by a Noncommercial

Educational Webcaster that was not making Educational Transmissions or Ephemeral Recordings pursuant to the licenses in 17 U.S.C. 114 and/or 17 U.S.C. 112(e) as of January 31st of each calendar year but begins doing so thereafter shall be due by the 30th day after the end of the month in which the Noncommercial Educational Webcaster commences doing so. At the same time the Noncommercial Educational Webcaster must identify all its stations making Educational Transmissions and identify which of the reporting options set forth in paragraph (d) of this section it elects for the relevant year (provided that it must be eligible for the option it elects).

(c) *Statements of account.* Any payment due under paragraph (a) of this section shall be accompanied by a corresponding statement of account on a form provided by the Collective. A statement of account shall contain the following information:

(1) The name of the Noncommercial Educational Webcaster, exactly as it appears on the notice of use, and if the statement of account covers a single station only, the call letters or name of the station;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address (if any) and other contact information of the person to be contacted for information or questions concerning the content of the statement of account;

(3) The signature of a duly authorized representative of the applicable educational institution;

(4) The printed or typewritten name of the person signing the statement of account;

(5) The date of signature;

(6) The title or official position held by the person signing the statement of account;

(7) A certification of the capacity of the person signing; and

(8) A statement to the following effect: I, the undersigned duly authorized representative of the applicable educational institution, have examined this statement of account; hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence; and further certify that the licensee entity named herein qualifies as a Noncommercial Educational Webcaster for the relevant year, and did not exceed 160,000 total ATH in any month of the prior year for which the Noncommercial Educational Webcaster did not submit a statement of account and pay any required additional royalties.

(d) *Reporting by Noncommercial Educational Webcasters in general—(1)*

Reporting waiver. In light of the unique business and operational circumstances with respect to Noncommercial Educational Webcasters, and for the purposes of this subpart only, a Noncommercial Educational Webcaster that did not exceed 80,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 80,000 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to pay to the Collective a nonrefundable, annual Proxy Fee of \$100 in lieu of providing reports of use for the calendar year pursuant to the regulations at § 370.4 of this chapter. In addition, a Noncommercial Educational Webcaster that unexpectedly exceeded 80,000 total ATH on one or more channels or stations for more than one month during the immediately preceding calendar year may elect to pay the Proxy Fee and receive the reporting waiver described in this paragraph (d)(1) during a calendar year, if it implements measures reasonably calculated to ensure that it will not make Educational Transmissions exceeding 80,000 total ATH during any month of that calendar year. The Proxy Fee is intended to defray the Collective's costs associated with the reporting waiver in this paragraph (d)(1), including development of proxy usage data. The Proxy Fee shall be paid by the date specified in paragraph (b) of this section for paying the Minimum Fee for the applicable calendar year and shall be accompanied by a certification on a form provided by the Collective, signed by a duly authorized representative of the applicable educational institution, stating that the Noncommercial Educational Webcaster is eligible for the Proxy Fee option because of its past and expected future usage and, if applicable, has implemented measures to ensure that it will not make excess Educational Transmissions in the future.

(2) *Sample-basis reports.* A Noncommercial Educational Webcaster that did not exceed 160,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 160,000 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to provide reports of use on a sample basis (two weeks per calendar quarter) in accordance with the regulations at § 370.4 of this chapter, except that, notwithstanding

§ 370.4(d)(2)(vi) of this chapter, such an electing Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances and may in lieu thereof provide channel or station name and play frequency. Notwithstanding the preceding sentence, a Noncommercial Educational Webcaster that is able to report ATH or actual total performances is encouraged to do so. These reports of use shall be submitted to the Collective no later than January 31st of the year immediately following the year to which they pertain.

(3) *Census-basis reports.* (i) If any of the conditions in paragraphs (d)(3)(i)(A) through (C) of this section is satisfied, a Noncommercial Educational Webcaster must report pursuant to paragraph (d)(3) of this section:

(A) The Noncommercial Educational Webcaster exceeded 160,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year;

(B) The Noncommercial Educational Webcaster expects to exceed 160,000 total ATH for any individual channel or station for any calendar month in the applicable calendar year; or

(C) The Noncommercial Educational Webcaster otherwise does not elect to be subject to paragraph (d)(1) or (2) of this section.

(ii) A Noncommercial Educational Webcaster required to report pursuant to paragraph (d)(3)(i) of this section shall provide reports of use to the Collective quarterly on a census reporting basis in accordance with § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2) of this chapter, such a Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances, and may in lieu thereof provide channel or station name and play frequency, during the first calendar year it reports in accordance with paragraph (d)(3) of this section. For the avoidance of doubt, after a Noncommercial Educational Webcaster has been required to report in accordance with paragraph (d)(3)(i) of this section for a full calendar year, it must thereafter include ATH or actual total Performances in its reports of use. All reports of use under paragraph (d)(3)(i) of this section shall be submitted to the Collective no later than the 30th day after the end of each calendar quarter.

(e) *Server logs.* Noncommercial Educational Webcasters shall retain for a period of no less than three full calendar years server logs sufficient to substantiate all information relevant to eligibility, rate calculation and reporting under this subpart. To the extent that a

third-party Web hosting or service provider maintains equipment or software for a Noncommercial Educational Webcaster and/or such third party creates, maintains, or can reasonably create such server logs, the Noncommercial Educational Webcaster shall direct that such server logs be created and maintained by said third party for a period of no less than three full calendar years and/or that such server logs be provided to, and maintained by, the Noncommercial Educational Webcaster.

(f) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this subpart shall be those set forth in subpart A of this part.

Dated: February 25, 2026.

Trevor Jefferson,

Interim Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Robert R. Newlen,

Acting Librarian of Congress.

[FR Doc. 2026-04630 Filed 3-9-26; 8:45 am]

BILLING CODE 1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 383

[Docket No. 23-CRB-0013-NSR (2026-2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings by New Subscription Services and Making of Ephemeral Copies To Facilitate Those Performances (NSS V)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the digital performances of sound recordings by new subscription services and for the making of ephemeral recordings necessary to facilitate those transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Effective March 10, 2026.

Applicability date: The regulations apply to the license period beginning January 1, 2026, and ending December 31, 2030.

ADDRESSES: *Docket:* For access to the docket, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23-CRB-0013-NSR (2026-2030).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, at (202) 707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2024, the Copyright Royalty Judges published a proposed rule governing the rates and terms for the digital performances of sound recordings by new subscription services that provide transmissions to residential subscribers as part of a cable or satellite television bundle and for the making of ephemeral recordings necessary to facilitate those transmissions for the period commencing January 1, 2026, and ending on December 31, 2030. 89 FR 103722. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange, Inc., Sirius XM Inc., and Stingray Music USA Inc. Settling Parties' Joint Motion to Adopt Settlement, Docket No. 23-CRB-0013-NSR (2026-2030) ("NSS V"). Those who would be bound by the terms, rates, or other determination set by the agreement were given the opportunity to comment and participants in the NSS V proceeding were given the opportunity to object to any or all of the proposed regulations. In response to a comment from the settling parties, the Judges published a correction to the proposed rule on February 10, 2025, to correct the omission of certain parentheses in the rate adjustment formulas. 90 FR 9224. The correction extended the comment period through March 12, 2025.

The Judges received one additional comment to the proposed rule from David Powell. Mr. Powell is not a participant in the NSS V proceeding and thus is not entitled to object to the settlement. To the extent he would be bound by the terms, rates, or other determination set by the agreement, his comment did not contain "any comprehensible basis" for deviating from the settlement. Order 6 Denying Powell Motions, Docket No. 23-CRB-0013-NSR (2026-2030).

The Judges "may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement," only "if any

participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates,” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable licenses or otherwise contrary to statutory law. No NSS IV participant has objected to the settlement. The Register of Copyrights has completed her review of the CRB’s Final Rule for legal error, under 17 U.S.C. 803(f)(1)(D), and will not be issuing any corrections. In the absence of any objection from a participant, and in the absence of any cognizable indication that the Final Rule includes provisions that are contrary to the applicable licenses or otherwise contrary to statutory law, the provisions of 17 U.S.C. 801(b)(7)(A) direct the Judges to adopt the Final Rule.¹ Therefore, the Judges adopt the terms and rates as proposed. The Judges find that under the circumstances of this proceeding and this settlement, adoption of the Final Rule is directed by the statute, and that such directed adoption is principally a ministerial function by the Judges.

List of Subjects in 37 CFR Part 383

Copyright, Sound recordings, Webcasters.

Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Judges revise 37 CFR part 383 to read as follows:

PART 383—RATES AND TERMS FOR SUBSCRIPTION TRANSMISSIONS AND THE REPRODUCTION OF EMPHEMERAL RECORDINGS BY CERTAIN NEW SUBSCRIPTION SERVICES

Sec.

383.1 General.

383.2 Definitions.

383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

383.4 Distribution of royalties.

383.5 Auditing payments and distributions.

383.6 Terms for making payment of royalty fees.

Authority: 17 U.S.C. 112(e), 114, and 801(b)(1).

§ 383.1 General.

(a) *Scope*. This part establishes rates and terms of royalty payments for the

public performance of sound recordings in certain digital transmissions by Licensees in accordance with the provisions of 17 U.S.C. 114, and the making of certain ephemeral recordings by Licensees in accordance with the provisions of 17 U.S.C. 112(e), during the period commencing January 1, 2026, and continuing through December 31, 2030.

(b) *Legal compliance*. Licensees relying upon the statutory licenses set forth in 17 U.S.C. 112(e) and 114 shall comply with the requirements of those sections and the rates and terms of this part.

(c) *Relationship to voluntary agreements*. Notwithstanding the royalty rates and terms established in this part, the rates and terms of any voluntary license agreements entered into by Copyright Owners and Licensees shall apply in lieu of the rates and terms of this part to transmissions with the scope of such agreements.

§ 383.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Bundled Contracts* means contracts between the Licensee and a Provider in which the Service is not the only content licensed by the Licensee to the Provider.

(b) *Collective* means the collection and distribution organization that is designated by the Copyright Royalty Judges, and which, for the current rate period, is SoundExchange, Inc.

(c) *Copyright Owner* means a sound recording copyright owner, or a rights owner under 17 U.S.C. 1401(l)(2), who is entitled to receive royalty payments made under this part pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114.

(d) *License Period* means the period commencing January 1, 2026, and continuing through December 31, 2030.

(e) *Licensee* is a person that has obtained statutory licenses under 17 U.S.C. 112(e) and 114, and the implementing regulations in this part, to make digital audio transmissions as part of a Service (as defined in this section), and ephemeral recordings for use in facilitating such transmissions.

(f) *Payor* means the entity required to make royalty payments to the Collective or the entity required to distribute royalty fees collected, depending on context. The Payor is:

(1) A Licensee, in relation to the Collective; and

(2) The Collective in relation to a Copyright Owner or Performer.

(g) *Performers* means the independent administrators identified in 17 U.S.C.

114(g)(2)(B) and (C) and the parties identified in 17 U.S.C. 114(g)(2)(D).

(h) *Provider* means a “multichannel video programming distributor” as that term is defined in 47 CFR 76.1000(e); notwithstanding such definition, for purposes of this part, a Provider shall include only a distributor of programming to televisions, such as a cable or satellite television provider.

(i) *Qualified auditor* means a Certified Public Accountant independent within the meaning of the American Institute of Certified Public Accountants Code of Professional Conduct.

(j) *Service* is a non-interactive (consistent with the definition of “interactive service” in 17 U.S.C. 114(j)(7)) audio-only subscription service (including accompanying information and graphics related to the audio) that is transmitted to residential subscribers of a television service through a Provider which is marketed as and is in fact primarily a video service where:

(1) Subscribers do not pay a separate fee for audio channels.

(2) The audio channels are delivered by digital audio transmissions through a technology that is incapable of tracking the individual sound recordings received by any particular consumer.

(3) However, paragraph (j)(2) of this section shall not apply to the Licensee’s current contracts with Providers that are in effect as of the effective date of this part if such Providers become capable in the future of tracking the individual sound recordings received by any particular consumer, provided that the audio channels continued to be delivered to Subscribers by digital audio transmissions and the Licensee remains incapable of tracking the individual sound recordings received by any particular consumer.

(k) *Subscriber* means every residential subscriber to the underlying service of the Provider who receives Licensee’s Service in the United States for all or any part of a month; provided, however, that for any Licensee that is not able to track the number of subscribers on a per-day basis, “Subscribers” shall be calculated based on the average of the number of subscribers on the last day of the preceding month and the last day of the applicable month, unless the Service is paid by the Provider based on end-of-month numbers, in which event “Subscribers” shall be counted based on end-of-month data.

(l) *Stand-Alone Contracts* means contracts between the Licensee and a Provider in which the only content licensed to the Provider is the Service.

¹ The provisions of 37 CFR 383.4 in the Final Rule do not limit the statutory obligations in 17 U.S.C. 114(g)(5) or (6).

§ 383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

(a) *Royalty rates.* Royalty rates for the public performance of sound recordings by eligible digital transmissions made over a Service pursuant to 17 U.S.C. 114, and for ephemeral recordings of sound recordings made pursuant to 17 U.S.C. 112(e) to facilitate such transmissions during the License Period, are as follows. For 2026, each Licensee will pay, with respect to content covered by the License that is provided via the Service of each such Licensee:

(1) For Stand-Alone Contracts, a monthly payment of [amount to be calculated in November 2025 and published in December 2025 in the final rule] per Subscriber to the Service of such Licensee, which is equivalent to the 2025 royalty rate of \$0.0234, as adjusted by the annual royalty fee adjustment in paragraph (b) of this section.

(2) For Bundled Contracts, a monthly payment of [amount to be calculated in November 2025 and published in December 2025 in the final rule] per Subscriber to the Service of such Licensee, which is equivalent to the 2025 royalty rate of \$0.0390, as adjusted by the annual royalty fee adjustment in paragraph (b) of this section.

(b) *Annual royalty fee adjustment.* (1) The Copyright Royalty Judges shall adjust the royalty fees each year, as described in paragraph (b)(2) of this section, beginning with the fees for 2026, to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index for All Urban Consumers (U.S. City Average, all items) (CPI-U) published by the Secretary of Labor before December 1 of the preceding year.

(2)(i) The calculation of the rate for each year shall be cumulative based on a calculation of the percentage increase in the CPI-U from the CPI-U published in November 2024 (CPI-U%) and shall be made according to the following formulas:

(A) For Stand-Alone Contracts, $(1 + (C_y - 315.664)/315.664) \times \$0.0234$; and

(B) For Bundled Contracts, $(1 + (C_y - 315.664)/315.664) \times \$0.0390$; and

(ii) For both formulas C_y is the CPI-U published by the Secretary of Labor before December 1 of the preceding year. The adjusted rate shall be rounded to the nearest fourth decimal place.

(3) The Judges shall publish notice of the adjusted fees in the **Federal Register** at least 25 days before January 1 of each year of the License Period. The adjusted fees shall be effective on January 1 of

each year of the License Period for such year.

(c) *Minimum fee.* Each Licensee will pay an annual, non-refundable minimum fee of one hundred thousand dollars (\$100,000), payable on January 31 of each calendar year in which the Service is provided pursuant to statutory licenses under 17 U.S.C. 112(e) and 114. Such fee shall be recoupable and credited against royalties due in the calendar year for which the payment is made.

(d) *Allocation between ephemeral recordings fees and performance royalty fees.* The Collective must credit 5% of all royalty payments as royalty payment for Ephemeral Recordings and credit the remaining 95% to royalties under 17 U.S.C. 114. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making noninteractive digital transmissions through a Service are included in the 5%.

§ 383.4 Distribution of royalties.

The Collective must promptly distribute royalties received from Licensees to Copyright Owners and Performers that are entitled thereto, or to their designated agents. The Collective shall only be responsible for making distributions to those who provide the Collective with information as is necessary to identify and pay the correct recipient. The Collective must distribute royalties on a basis that values all usage by a Licensee equally based upon the information provided under the Reports of Use requirements for Licensees pursuant to § 370.4 of this chapter and this part. However, in any case in which a Licensee has not provided a compliant Report of Use, whether for the License Period or otherwise, and the board of directors of the Collective determines that further efforts to seek the missing Report of Use from the Licensee would not be warranted, the Collective may distribute the royalties associated with the Licensee's missing Report of Use on the basis of Reports of Use for the corresponding calendar year filed by other Licensees.

§ 383.5 Auditing payments and distributions.

(a) *General.* This section prescribes procedures by which any entity entitled to receive payment or distribution of royalties may verify payments or distributions by auditing the Payor. The Collective may audit a Licensee's payments of royalties to the Collective, and a Copyright Owner or Performer may audit the Collective's distributions of royalties to the Copyright Owner or

Performer. Nothing in this section shall preclude a verifying entity and the Payor from agreeing to verification methods in addition to or different from those set forth in this section.

(b) *Frequency of auditing.* The verifying entity may conduct an audit of each Licensee only once a year for any or all of the prior three calendar years. A verifying entity may not audit records for any calendar year more than once.

(c) *Notice of intent to audit.* The verifying entity must file with the Copyright Royalty Judges a notice of intent to audit the Payor, which notice the Judges must publish in the **Federal Register** within 30 days of the filing of the notice. Simultaneously with the filing of the notice, the verifying entity must deliver a copy to the Payor.

(d) *The audit.* The audit must be conducted during regular business hours by a qualified auditor who is not retained on a contingency fee basis and is identified in the notice. The auditor shall determine the accuracy of royalty payments or distributions, including whether an underpayment or overpayment of royalties was made. An audit of books and records, including underlying paperwork, performed in the ordinary course of business according to generally accepted auditing standards by a qualified auditor, shall serve as an acceptable verification procedure for all parties with respect to the information that is within the scope of the audit.

(e) *Access to third-party records for audit purposes.* The Payor must use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit.

(f) *Duty of auditor to consult.* The auditor must produce a written report to the verifying entity. Before rendering the report, unless the auditor has a reasonable basis to suspect fraud on the part of the Payor, the disclosure of which would, in the reasonable opinion of the auditor, prejudice any investigation of the suspected fraud, the auditor must review tentative written findings of the audit with the appropriate agent or employee of the Payor in order to remedy any factual errors and clarify any issues relating to the audit; provided that an appropriate agent or employee of the Payor reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit. The auditor must include in the written report information concerning the cooperation or the lack thereof of the employee or agent.

(g) *Audit results; underpayment or overpayment of royalties.* If the auditor

determines the Payor underpaid royalties, the Payor shall remit the amount of any underpayment determined by the auditor to the verifying entity, together with interest at the rate specified in § 380.2(d) of this chapter. In the absence of mutually agreed payment terms, which may, but need not, include installment payments, the Payor shall remit promptly to the verifying entity the entire amount of the underpayment determined by the auditor. If the auditor determines the Payor overpaid royalties, however, the verifying entity shall not be required to remit the amount of any overpayment to the Payor, and the Payor shall not seek by any means to recoup, offset, or take a credit for the overpayment, unless the Payor and the verifying entity have agreed otherwise.

(h) *Paying the costs of the audit.* The verifying entity must pay the cost of the verification procedure, unless the auditor determines that there was a net underpayment (*i.e.*, underpayments less any overpayments) of 10% or more, in which case the Payor must bear the reasonable costs of the verification procedure, in addition to paying or distributing the amount of any underpayment.

(i) *Retention of audit report.* The verifying party must retain the report of the audit for a period of not less than three years from the date of issuance.

§ 383.6 Terms for making payment of royalty fees.

(a) *Terms in general.* Subject to the provisions of this section, terms governing timing and due dates of royalty payments to the Collective, late fees, statements of account, audit and verification of royalty payments and distributions, retention of records requirements, treatment of Licensees' confidential information, distribution of royalties by the Collective, unclaimed funds, designation of the Collective, and any definitions for applicable terms not defined in this part and not otherwise inapplicable shall be those adopted by the Copyright Royalty Judges for digital audio transmission and the reproduction of ephemeral recordings by Commercial Webcasters in part 380, subpart A, of this chapter, for the License Period. For purposes of this part, the term "Collective" refers to the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period, the sole Collective is SoundExchange, Inc.

(b) *Reporting of performances.* Without prejudice to any applicable notice and recordkeeping provisions,

statements of account shall not require reports of performances.

(c) *Applicable regulations.* To the extent not inconsistent with this part, all applicable regulations, including part 370 of this chapter, shall apply to activities subject to this part.

Dated: February 25, 2026.

Trevor Jefferson,

Interim Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Robert R. Newlen,

Acting Librarian of Congress.

[FR Doc. 2026-04627 Filed 3-9-26; 8:45 am]

BILLING CODE 1410-72-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2023-0641; FRL-12157-02-R8]

Air Plan Approval; North Dakota; Approval of Air Quality Implementation Plans; Regional Haze State Implementation Plan; Regional Haze Five Year Progress Report and Nitrogen Oxides Best Available Retrofit Technology Determination for Coal Creek Station for the First Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving certain portions of State Implementation Plan (SIP) revisions submitted by the State of North Dakota (North Dakota) on January 12, 2015, and August 11, 2022, to address regional haze. Specifically, the EPA is approving North Dakota's nitrogen oxides (NO_x) Best Available Retrofit Technology (BART) determination for Coal Creek Station power plant (Coal Creek) for the first implementation period of the regional haze program and North Dakota's five-year regional haze progress report. This action addresses the United States Court of Appeals for the Eighth Circuit's September 23, 2013, vacatur and remand of the portion of EPA's 2012 Regional Haze Federal Implementation Plan (FIP) that promulgated a BART emission limit of 0.13 pounds per million BTU (lb/MMBtu) NO_x (30-day rolling average) for Coal Creek. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: This rule is effective on April 9, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2023-0641. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Joe Stein, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-7078, email address: stein.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" means the EPA.

I. What is being addressed in this document?

The EPA is approving North Dakota's 2015 progress report and the portion of North Dakota's 2022 SIP submission relating to the first implementation period¹ NO_x BART determination for Coal Creek. As required by section 169A of the CAA, the Regional Haze Rule (RHR) calls for state and federal agencies to work together to improve visibility in 156 national parks and wilderness areas, known as mandatory Class I Federal areas.² The rule requires states, in coordination with the EPA, the National Park Service, the Fish and Wildlife Service, the Forest Service, and other interested parties, to develop and implement air quality protection plans to reduce the pollution that causes visibility impairment in mandatory Class I Federal areas. Visibility impairing pollutants include fine and coarse particulate matter (PM) (*e.g.*, sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.*, sulfur dioxide (SO₂), NO_x, and, in some cases, volatile organic compounds (VOC) and ammonia (NH₃)). As discussed in further detail in our proposed rule, in this document, and in the

¹ EPA uses the terms "implementation period" and "planning period" interchangeably.

² See 40 CFR part 81, subpart D.

accompanying Response to Comments (RTC) document, the EPA finds that North Dakota's 2015 progress report and the portion of North Dakota's 2022 SIP submission relating to the first implementation period NO_x BART determination for Coal Creek meets all the statutory and regulatory requirements for the regional haze first planning period. The State's submission, the proposed rule, and the RTC document can be found in the docket for this action.

II. Summary of the Proposed Action, Public Comments, and EPA's Reasons for Final Action

On January 12, 2015, North Dakota submitted a SIP revision to address the regional haze program requirements to submit periodic progress reports under 40 CFR 51.308(g) and 40 CFR 51.308(h) (2015 progress report). On August 11, 2022, North Dakota submitted a SIP revision to address regional haze for the second implementation period and included a revised first implementation period NO_x BART determination for Coal Creek, pursuant to CAA section 169A, CAA section 169B, 40 CFR 51.308(e), and 40 CFR part 51, appendix Y (North Dakota's 2022 SIP submission).

On August 14, 2024, the EPA proposed to approve North Dakota's 2015 progress report and the portion of North Dakota's 2022 SIP submission relating to the first implementation period NO_x BART determination for Coal Creek.³ Our public comment period closed on September 13, 2024. The August 14, 2024, proposed rule provided background on the requirements of the CAA and RHR, a summary of North Dakota's regional haze SIP submittals and related EPA actions, and EPA's rationale for its proposed action. That background and rationale will not be restated in full here, although we briefly summarize the reasons for our approval of North Dakota's 2015 progress report and the portion of North Dakota's 2022 SIP submission relating to the first implementation period NO_x BART determination for Coal Creek in the paragraphs that follow.

The EPA proposed approval for the portion of North Dakota's 2022 SIP submission relating to the updated NO_x BART determination for Coal Creek Units 1 and 2, finding that LNC3+⁴ at 0.15 lb/MMBtu (30-day rolling average) constitutes BART for these units. As an initial matter, we found that the State

reasonably characterized the five factors required in a BART analysis, including the costs of compliance, energy and non-air quality environmental impacts of compliance, pollution control equipment at the source, the remaining useful life of any potentially affected sources, and visibility improvement resulting from controls. The EPA also found that North Dakota's revised cost calculation was appropriate, including: (1) the use of LNC3⁵ with DryFining™ as a baseline control technology in cost analysis; (2) the use of baseline NO_x emission rates of 0.18 lb/MMBtu for both units based on three-year annual average data of LNC3 operation on Unit 1; (3) and the use of amortization periods of 20 and 30 years for selective non-catalytic reduction (SNCR) and selective catalytic reduction (SCR), respectively. We proposed findings that the State reasonably considered that information, as well as each of the five BART factors,⁶ in reaching its revised NO_x BART determination. After consideration of all five of these factors and in accordance with the CAA BART requirements in the BART Guidelines contained within the RHR,⁷ we proposed to approve the State's determination that LNC3+ at a rate of 0.15 lb/MMBtu (30-day rolling average) constitutes NO_x BART for Coal Creek Units 1 and 2. We also proposed to approve North Dakota's 2015 progress report for meeting the requirements of 40 CFR 51.308(g) and 40 CFR 51.308(h).

During the public notice and comment period, we received seven comments on our proposal. Some comments received were in support of EPA's approval, while others argued in support of disapproval. Some commenters claim that the EPA erred in finding North Dakota's BART determination reasonable. Below, we provide a summary and response to this issue, including commenters' claims that more stringent controls of LNC3+ w/SNCR and LNC3+ w/SCR should not have been rejected.

In North Dakota's 2022 SIP submission, North Dakota determined that based on cost of compliance and visibility improvement associated with potential controls, it would not be reasonable to require SNCR or SCR when determining a BART emission

limit for Coal Creek Units 1 and 2. Instead, North Dakota determined BART for Units 1 and 2 to be 0.15 lb/MMBtu associated with the operation of LNC3+. Some commenters argue that this limit for LNC3+ is less stringent than can be achieved at the facility and is not approvable as the emission limit required under BART. As further explained in section VII. of the RTC document, the EPA finds that given variable unit load and the variable sodium content of the fuel used by Coal Creek (North Dakota lignite), North Dakota's selection of a 0.15 lb/MMBtu limit for NO_x at Coal Creek Units 1 and 2 is reasonable. Some commenters argue that North Dakota's selection of LNC3+ for Coal Creek as BART is unreasonable; North Dakota should have required a more stringent control technology, LNC3+ w/SNCR, due to its cost effectiveness and visibility benefits; and the BART example cited by the EPA to support North Dakota's selection of LNC3+ is inappropriate. As further explained in section V. of the RTC document, the EPA disagrees with the commenters' claim that North Dakota's determination conflicts with past examples of BART determinations. Within the RTC, the EPA notes key fact-pattern differences in the past determinations cited. The EPA also notes that "each BART determination must be made on a case-by case basis considering the relevant facts in each case."⁸ Ultimately, based on the information in this document, the associated RTC document available in the docket to this action, as well as our proposed approval, we find that it is reasonable for North Dakota to reject a more stringent emissions limit associated with operation of LNC3+ w/ SNCR based on cost of compliance and visibility improvement.

Commenters also argue that North Dakota should have required a more stringent emission limit associated with operation of LNC3+ w/SCR because North Dakota improperly calculated cost of compliance and improperly weighed technical feasibility concerns. As further explained in the RTC document included in the docket to this action, The EPA supports North Dakota's determination that LNC3+ w/SCR is not reasonable due to a high cost of compliance. Further, the EPA finds that North Dakota provided documentation supporting their concerns about the technical feasibility of SCR at North Dakota lignite coal facilities. Additionally, we point to court precedent in support of North Dakota's arguments on technical feasibility of

⁵ LNC3 is a combination of closed-coupled overfire air (COFA), separated overfire air (SOFA), and low-NO_x burners (LNB).

⁶ Coal Creek is subject to 40 CFR part 51, appendix Y: Guidelines for BART Determinations Under the Regional Haze Rule because it is a power plant with a greater than 750 MW capacity.

⁷ 40 CFR part 51, appendix Y: Guidelines for BART Determinations Under the Regional Haze Rule.

⁸ 82 FR 15139, 15144 (March 27, 2017).

³ 89 FR 66015 (August 14, 2024).

⁴ LNC3+ is a combination of modified and additional separated overfire air (SOFA), close-coupled overfire air (COFA), and low-NO_x burners (LNB).

SCR at North Dakota lignite facilities.⁹ The EPA finds that it is reasonable for North Dakota to reject LNC3+ w/SCR based on concerns about both cost of compliance and technical feasibility. Thus, the EPA is finalizing approval of North Dakota's NO_x BART determination for Coal Creek Station Units 1 and 2 at a limit of 0.15 lb/MMBtu NO_x associated with operation of LNC3+. The comments received are summarized and addressed in full in a separate RTC document. The full text of comments received is included in the publicly posted docket associated with this action at <https://www.regulations.gov>.

III. Final Action

For the reasons stated in the proposed rule, in the RTC document, and in this document, we are approving North Dakota's 2015 progress report and the portion of North Dakota's 2022 SIP submission relating to the first implementation period NO_x BART determination for Coal Creek Units 1 and 2. This approval establishes a BART limit of 0.15 lb/MMBtu NO_x (30-day rolling average) for Coal Creek Units 1 and 2.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SIP amendments described in the amendments to 40 CFR part 52. These amendments are contained within the Permit to Construct for Coal Creek Station: "PTC21001." In § 52.1820, the table in paragraph (d) is amended under the center heading "Coal Creek Station Units 1 and 2." by removing entry "PTC1005" and adding the entry "PTC21001" in its place (state effective date: 7/27/2022). The EPA is incorporating the NO_x BART emissions limits for Coal Creek Units 1 and 2 (0.15 lb/MMBtu NO_x) and corresponding monitoring, recordkeeping, and reporting requirements contained within "PTC21001." The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been

approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹⁰

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because it is exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it disapproves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act (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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 5, 2026.

Cyrus M. Western,
Regional Administrator, Region 8.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart JJ—North Dakota

- 2. In § 52.1820, the table in paragraph (d) is amended under the center heading "Coal Creek Station Units 1 and 2." by removing the entry "PTC10005" and adding the entry "PTC21001" in its place to read as follows:

⁹ "Order Denying Plaintiff's Motion to Stay and Motion for Dispute Resolution." *United States v. Minnkota Power Cooperative, Inc.* (831 F.Supp.2d 1109, D.N.D. 2011).

¹⁰ 62 FR 27968 (May 22, 1997).

§ 52.1820 Identification of plan.

(d) * * *

* * * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
Coal Creek Station Units 1 and 2.					
PTC21001	Air Pollution Control Permit to Construct for Best Available Retrofit Technology (BART).	7/27/2022	4/9/2026	91 FR [insert Federal Register page where the document begins], 3/10/2026.	Only: NO _x BART emissions limits for Units 1 and 2 and corresponding monitoring, recordkeeping, and reporting requirements.
*	*	*	*	*	*

* * * * *

[FR Doc. 2026-04649 Filed 3-9-26; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 91, No. 46

Tuesday, March 10, 2026

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-2286; Project Identifier MCAI-2025-01556-T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318 series airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes; and Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes. This proposed AD was prompted by reports of broken bolts in seat rail connections of certain frames. This proposed AD would require replacement of the nylon bushes with bronze bushes in the affected areas and would also prohibit the installation of affected parts in those areas. 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 April 24, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-2286; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-2286.

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

FOR FURTHER INFORMATION CONTACT:

Camille L Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 817-222-5149; email Camille.L.Seay@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA-2026-2286; Project Identifier MCAI-2025-01556-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](https://www.regulations.gov), including any personal information you provide. The agency

will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Camille L Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 817-222-5149; email Camille.L.Seay@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025-0207R1, dated October 30, 2025 (EASA AD 2025-0207R1) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes; and Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes. Model A320-215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states reports were received of broken bolts in the seat rail connections in the area of frame (FR) 47 (for Model A320 and A321 series airplanes), FR47/51 (for Model A319 series airplanes), FR47/54 (for Model A318 series airplanes), FR35 (for Model A318, A319 and A320 series

airplanes) and FR35.8 (for A321 series airplanes), as applicable. This condition, if not corrected, could lead to seat detachment and passengers' injuries under emergency landing loads. The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2286.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0207R1 specifies procedures that would require replacement of the nylon bushes with bronze bushes in the affected areas. The replacement includes doing a rotating probe inspection of the fastener holes for cracking, checking the hole diameter of the bracket assemblies, seat track, and long beam, as applicable, to determine if it is within tolerance, checking the inner diameter of the bushing to determine if it is within tolerance, and contacting the manufacturer for repair instructions and doing the repair. EASA AD 2025–0207R1 would also prohibit the installation of affected parts in those areas.

This material is reasonably available because the interested parties have access to it through their normal course

of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0207R1 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with

requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0207R1 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0207R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0207R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0207R1. Material required by EASA AD 2025–0207R1 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–2286 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,404 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 76 work-hours × \$85 per hour = \$6,460	Up to \$13,400	Up to \$19,860	Up to \$27,883,440.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this proposed AD.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–2286; Project Identifier MCAI–2025–01556–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 24, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0207R1, dated October 30, 2025 (EASA AD 2025–0207R1).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of broken bolts in the affected seat rail connections of certain frames. The FAA is issuing this AD to address broken bolts in the affected seat rail connections of certain frames. The unsafe condition, if not addressed, could result in seat detachment and passenger injuries under emergency landing loads.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0207R1.

(h) Exceptions to EASA AD 2025–0207R1

(1) Where EASA AD 2025–0207R1 refers to October 7, 2025 (the effective date of the original issue of EASA AD 2025–0207), this AD requires using the effective date of this AD.

(2) Where the service information specified in EASA AD 2025–0207 specifies to contact Airbus if any cracking is found or if any diameter is not within tolerance, this AD requires doing a repair before further flight using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature."

(3) This AD does not adopt the "Remarks" section of EASA AD 2025–0207R1

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector

or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraphs (h)(2) and (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Camille L. Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 817–222–5149; email Camille.L.Seay@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0207R1, dated October 30, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

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

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

Issued on March 3, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–04713 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–2293; Project Identifier MCAI–2025–00684–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This proposed AD was prompted by a report of a failed extension of the inboard slats during the landing phase, which the crew alerting system (CAS) did not indicate to the flightcrew. This proposed AD would require modifying the maintenance and avionics interface computer (MAIC) software and revising the existing airplane flight manual (AFM) to provide improved procedures for addressing slats failures. 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 April 24, 2026.

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

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–2293; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA–2026–2293.

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

FOR FURTHER INFORMATION CONTACT:

Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–2293; Project Identifier MCAI–2025–00684–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 Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; email: 9-AVS-AIR-BACO-COS@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA Emergency AD 2022–0161–E, dated August 4, 2022 (EASA Emergency AD 2022–0161–E), as an interim action to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. EASA Emergency AD 2022–0161–E states there was a reported occurrence of a failed extension of the inboard slats during the landing phase, which the CAS did not indicate to the flightcrew. This condition, if not corrected, could lead to reduced lift margin during approach and landing, possibly resulting in reduced control of the airplane. The FAA issued corresponding FAA AD 2022–18–18, Amendment 39–22169 (87 FR 54131, September 2, 2022) (AD 2022–18–18) to require revising the existing AFM to provide procedures for failed extension of inboard slats and flightcrew indication during landing.

Since the FAA issued AD 2022–18–18, EASA issued EASA AD 2025–0092, dated April 23, 2025 (EASA AD 2025–0092) (also referred to as the MCAI), to further address the unsafe condition identified in EASA Emergency AD 2022–0161–E for Dassault Aviation Model FALCON 7X airplanes that have embodied Dassault modification M1000. EASA AD 2025–0092 states Dassault Aviation has developed Dassault modification M2138 that introduces changes to the MAIC software to restore crew awareness about the inboard slat configuration in case of slat failures and published improved AFM procedures to cope with slat failures. EASA AD 2025–0092 also stated the AD is considered an interim action and further AD action may follow to expand the applicability to airplanes that have not embodied Dassault modification M1000.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2026–2293.

Other Relevant Rulemaking

Accomplishing the actions in this proposed AD would terminate the requirements of AD 2022–18–18 only for Dassault Aviation Model FALCON 7X airplanes that have embodied Dassault modification M1000.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0092 requires the following actions:

- Upgrading the MAIC software, which includes modifying the digital flight control system (DFCS) 4.1.3 standard to ensure the “FCS: SLAT INB EXTEND FAIL” CAS message is properly displayed (Dassault modification M2138).
- Accomplishing Dassault modification M1968 or Dassault modification M1655, as applicable, prior to accomplishing Dassault modification M2138. Dassault modification M1968 includes updating the MAIC software. Dassault modification M1655 includes modifying DFCS standard 4.1.1.
- Amending the AFM to implement improved procedures for addressing slat failures.

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

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0092 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Compliance With AFM Revisions

EASA AD 2025–0092 requires operators to “inform all flight crews” of revisions to the AFM, and thereafter, to “operate the airplane accordingly.” However, this proposed AD would not specifically require those actions as other actions are already required by FAA regulations. FAA regulations require that operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot’s training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. Section 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this proposed AD to

operate the airplane according to the revised AFM would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0092 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0092 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0092 does not mean that operators need comply only with

that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0092. Material required by EASA AD 2025–0092 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–2293 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action. If EASA later determines it is necessary to expand the applicability to airplanes that have not embodied Dassault modification M1000, the FAA might consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 25 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 24 work-hours × \$85 per hour = \$2,040	Up to \$2,860 *	Up to \$4,900	Up to \$122,500.

* The FAA estimates that rental of special tooling to accomplish Dassault modifications M2138, M1968, and M1655, as applicable, would cost \$929, \$981, and \$950 per day, respectively.

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

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2026–2293; Project Identifier MCAI–2025–00684–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 24, 2026.

(b) Affected ADs

This AD affects AD 2022–18–18, Amendment 39–22169 (87 FR 54131, September 2, 2022) (AD 2022–18–18).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0092, dated April 23, 2025 (EASA AD 2025–0092).

Note 1 to paragraph (c): Model FALCON 7X airplanes with Dassault modification M1000 incorporated are commonly referred to as “Model FALCON 8X” as a marketing designation.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a report of a failed extension of the inboard slats during the landing phase, which the crew alerting system did not indicate to the flightcrew. The FAA is issuing this AD to address the failed extension of inboard slats during landing phase without flightcrew indication. The unsafe condition, if not addressed, could lead to reduced lift margin during approach and landing and result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0092.

(h) Exceptions to EASA AD 2025–0092

(1) Where EASA AD 2025–0092 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2025–0092 specifies to “implement the AFM–CP”, this AD requires replacing that text with “revise the existing AFM to incorporate the procedures in “the AFM–CP” for addressing slat failures”.

(3) Where paragraph (3) of EASA AD 2025–0092 specifies to “inform all flight crews, and thereafter, operate the aeroplane accordingly,” this AD does not require those actions as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, 121.137, and 121.628(a)(2) and (5)).

(4) Where paragraph (5) of EASA AD 2025–0092 specifies “An aeroplane, the AFM of which has been amended to comply with paragraph (3) of this AD, or that has been amended by incorporating the AFM at revision 7, or later”, this AD requires replacing that text with “An airplane that has been amended by incorporating the AFM at revision 7, or later”.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0092.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0092 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Terminating Action for AD 2022–18–18

Accomplishing the actions required by this AD terminates the requirements of AD 2022–18–18 only for the airplanes identified in paragraph (c) of this AD.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0092, dated April 23, 2025.

(ii) Reserved.

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

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

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

Issued on March 5, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–04712 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 13**

[NPS–AKRO–NPS0040343; PPAKAKROD0, PPMPSPD1Y.YM0000]

RIN 1024–AE96

Alaska; Hunting and Trapping in National Preserves

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend its regulations for hunting, fishing, trapping, and other natural resource harvest in national preserves in Alaska and for the procedures used to restrict public use and access in Alaska park lands. These changes restore National Park Service interpretations of law, policies, and regulations adopted to implement the Alaska National Interest Lands Conservation Act of 1980 that were in effect for over three decades. Rulemaking in 2015, 2017, and 2024 preempted methods of State-authorized fish and wildlife harvests, revised codified and established procedures for restricting public access and activities in Alaska park lands, and added severability provision, among other changes. The revisions in this proposed rule are consistent with Executive Order (E.O.) 14153, E.O. 14192, and Secretary of the Interior’s Order (S.O.) 3422 titled “Unleashing Alaska’s Extraordinary Resource Potential.”

DATES: Comments on the proposed rule must be received by 11:59 p.m. ET on April 9, 2026.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE96, by either of the following methods:

(1) *Electronically:*

- Go to the **Federal Register**

website: <https://www.federalregister.gov>. In the search box, enter “1024–AE96”, the regulation identifier number (RIN) for this rulemaking. Click on the green “Submit a Public Comment” button at the top of the document and follow the instructions for submitting comments; or

• *Go to the Federal eRulemaking Portal:* <https://www.regulations.gov>. In the Search box, enter “1024–AE96”, the RIN for this rulemaking. On the resulting page, select the Dockets tab and then click on the title of the rule. Next, click the “Open for Comments” box, then click the blue “Comment” box and follow the instructions for submitting comments.

(2) *By hard copy:* Mail to: National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Comments delivered on external storage devices (flash drives, compact discs, etc.) will not be accepted.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024–AE96) for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read comments received, go to <https://www.regulations.gov>, search for “1024–AE96” and then click on the “Dockets” tab. In compliance with the Providing Accountability Through Transparency Act of 2023, the plain language summary of the proposal is available on [Regulations.gov](https://www.regulations.gov) in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Don Striker, Regional Director (Acting), Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501; phone (907) 227–6163; email: AKR_Regulations@nps.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Legal Authority

Section 1313 of the Alaska National Interest Lands Conservation Act (ANILCA) provides that “[a] National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and

trapping shall be allowed in a national preserve under applicable State and Federal law and regulation.” 16 U.S.C. 3201.

Section 1314(a) of ANILCA reaffirms that “Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution.” 16 U.S.C. 3202(a). Section 1314(c) provides further instructions on provisions for harvests and areas closed to all harvests in park units. 16 U.S.C. 3202(c).

Title VIII of ANILCA established a priority opportunity for customary and traditional subsistence uses of fish and wildlife by rural residents over other consumptive uses of fish and wildlife on Federal public lands, including Alaska’s National Preserves. As part of its management for sustainability under the Alaska Constitution, the State authorizes regulated take on Federal lands, while the Federal Subsistence Board acts as the Federal regulating agency to assure a subsistence priority is provided to rural residents. The Federal Subsistence Board is authorized to “close public lands to hunting, trapping, or fishing, or take actions to restrict the taking of fish and wildlife necessary to conserve healthy populations” and “continue subsistence uses of such populations”, while the National Park Service (NPS) retains authority “to issue regulations necessary for the proper management of public lands under [its] jurisdiction in accordance with ANILCA and other existing laws” (e.g., to restrict activities where statutory criteria are met). 43 CFR 51.13.

Beginning with Statehood in 1959, fish and wildlife harvest activities were regulated by the State of Alaska on all Federal and non-Federal lands and waters, subject to certain Federal laws. The three pre-statehood national parks were closed to all harvests except sport fishing. In 1978, Alaska adopted a statutory preference for subsistence uses among consumptive uses, which was regulated by the Boards of Fisheries and Game along with other uses. Upon passage of ANILCA, NPS adopted regulations in 1981 and 1983, which continued to recognize state-authorized harvests and methods for recreational, subsistence, commercial, and other uses apply to park units except where closed under ANILCA. In ANILCA, Congress established statutory criteria and a public engagement process that would protect traditional activities and methods of access on and across Federal lands for hunting, trapping, and other

activities to occur. From NPS adoption of regulations implementing ANILCA in 1981 through the NPS regulations and policies in effect in 2014, the application of state-authorized harvests remained relatively unchanged.

2015 Rule

On October 23, 2015, NPS reinterpreted its legal authorities and policies in publishing a final rule (2015 Rule; 80 FR 64,325) implementing major changes to its regulations for harvest and access on park lands in Alaska, as follows:

1. NPS added a new 36 CFR 13.42 that, among other things, prohibited: (1) trapping in a preserve as the employee of another; (2) transporting wildlife through parks without identification; (3) any state law identified by NPS as related to “predator reduction” efforts; (4) fourteen specific activities (including bear baiting); and (5) obstructing others engaged in lawful hunting. A previously existing prohibition on taking certain species after having been airborne the day before was moved into this new section. NPS also amended its interpretation of national policies and revised its Alaska-specific regulations for hunting and trapping in national preserves, including prohibiting certain harvest practices otherwise regulated by the State of Alaska. Information surrounding the rule focused public attention on certain harvest methods and values despite finding no impacts to wildlife populations and confirming that finding through an environmental analysis.

2. NPS revised the closure procedures in 36 CFR 13.50 and 36 CFR 13.490(a) to remove the well-established public participation process and criteria for restricting public use and access that, for over three decades, were prescribed in regulations for all park units in Alaska at 36 CFR parts 1 and 13 (beginning in 1981) and for all conservation system units in Alaska at 43 CFR part 36 (since 1986). Information surrounding the rule characterized these changes to public use, access, notice, and opportunity to be heard on park management actions as “updating” the definitions and processes.

3. NPS removed paragraph (e) from 36 CFR 13.400 and revised 36 CFR 13.470 and 36 CFR 13.480 to remove references to state law and the State of Alaska. Paragraph (e) in 36 CFR 13.400 had made clear that the State of Alaska’s regulation of the taking of fish and wildlife in park areas was authorized. The 2015 Rule’s removal of this express provision created confusion regarding the State’s management authority in parks. NPS stated the revisions to 36

CFR 13.470 and 36 CFR 13.480 were done to update the regulations to reflect Federal management of subsistence, but the 2015 Rule failed to explain that this provision had operated for years in the context of Federal management without issue. The 2015 Rule's deletion of references to the State of Alaska created ambiguity as to the extent of the State's authority to manage hunting and fishing in parks. These revisions reflected a reinterpretation of ANILCA as limiting "subsistence" to those harvests and users regulated by the Federal Subsistence Board under Title VIII, inadvertently closing park lands to state-authorized harvests for subsistence uses.

4. NPS revised 36 CFR 13.40 to "allow" use of native fish for non-subsistence fishing. NPS authorized this use of native species as bait for fishing and certain traditional harvest methods as an exception to nationwide NPS prohibitions that preempted those methods in other states. This "allowance" codified NPS's reinterpreted claim of authority to apply nationwide prohibitions to preempt state law in Alaska without meeting the criteria and process Congress required in Section 1313 of ANILCA, which limits NPS authority to restrict state-authorized harvests to specific criteria "consistent with the provisions of section 816" and "for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment" after consultation with the State.

The 2015 Rule was supported by organizations supporting preservation and opposing certain harvest methods, and was opposed by Alaska Native Tribes, Alaska Federation of Natives, Tanana Chiefs Conference, the State of Alaska, hunting and fishing advisory groups, gateway communities, and others affected by the harvest limits and disenfranchised by the process changes affecting access and traditional activities. The environmental analysis found no substantial difference in impact on NPS resources between the no action and preferred alternative adopted in the 2015 Rule. Numerous commenters objected to the omission in the analysis of significant impacts to the human environment and to the State's mandate for sustainable wildlife management.

2017 Rule

On January 12, 2017, the NPS published a final rule (2017 Rule; 82 FR 3626) that used regulations modified in the 2015 Rule to make unilateral changes affecting subsistence uses and other traditional activities, as follows:

1. NPS added a new 36 CFR 13.482 to require a permit for subsistence collection of animal parts and revised 36 CFR 13.485 to institute limitations on the ability of subsistence users to gather plant materials for handicrafts for customary trade. These revisions limited public participation and consultation with the State and subsistence user on management decisions and obscured requirements for managers limiting public access and traditional activities, such as removing the process required for park units in Alaska in 43 CFR part 36. In addition to removing these requirements for restricting protected access and authorized activities, NPS expanded its claim of discretionary authority by redefining the nature of a "closure" to allow more intense management of the public and park resources without needing to consult with the public or State and Federal managers.

For example, in its response to comment 11 (82 FR 3630), NPS claimed that "requiring a permit or otherwise putting conditions on an activity is not a closure," which ignores the fact a park is "closed" to any individual who fails to, cannot, or should not have to adhere to a given restriction. ANILCA and its implementing regulations recognize public entry, access, and use as "open until closed" to enable continuation of traditional activities, as prescribed by those regulations. The 2017 Rule claimed these activities, along with heritage activities like falconry and the customary and traditional uses of natural items in the park, were in conflict with nationwide regulations and revised policy interpretations, requiring more intense management and a discretionary permitting system.

When NPS removed its long-standing regulatory criteria, durations, and categories for emergency, temporary, and permanent restrictions and closures in the 2015 Rule, it expanded the discretion park superintendents exercise to implement these restrictions and closures without acknowledging the laws, policies, and well-established procedures in nationwide and Alaska-specific regulations at 36 CFR parts 1 and 13 that guided ANILCA implementation for over three decades before the 2015 and 2017 expansions.

2. NPS revised 36 CFR 13.420 Definitions to, among other things, insert a reference to ANILCA in "subsistence uses" that had the effect of displacing state authorized subsistence harvest from parks. NPS again changed the definition of "subsistence" in reinterpreting its authorities and policies to support discretion for more intense management actions, including

permanent closures without rulemaking (e.g., state-authorized subsistence uses) and requiring user permits instead of using park-specific or statewide regulations to govern the collection of natural objects and animal parts used to barter, make handicrafts, or for other customary and traditional uses.

For example, based on the environmental impact analysis supporting the 2017 Rule, the NPS Regional Director determined written authorization from NPS is required to collect animal parts and plant materials to make handicrafts for barter and customary trade. Collecting living or dead fish and wildlife "or the parts or products thereof, such as antlers or nests" is prohibited in nationwide NPS regulations, 36 CFR 2.1, along with most unpermitted commercial uses, e.g., 36 CFR 5.3. Because plant collection was authorized in Alaska-specific regulations, e.g., 36 CFR 13.485(b), and park-specific regulations, 36 CFR 13.1006 and 13.1504, a subsequent determination gave superintendents discretion to require written authorization for "collecting plants for making handicrafts for customary trade." 82 FR 3629 (response to comment 9).

Subsistence users expressed concerns about losing access to these irreplaceable materials and adding more permits to already permitted uses. In opposing the rule's basis and approach, users explained that gathering occurs simultaneously and opportunistically in search of all natural resources supporting a subsistence way of life, and the effect of the rule undermines congressional intent in ANILCA. See, e.g., 82 FR 3628 (comment 2), 3629 (comments 5, 8–10), and 3630 (comments 11 and 18). Tribal organizations and remote communities requested additional allowances and certainties, including for migratory bird eggs, steam bath rocks, and trade in unworked materials for apprentices, Elders, and culture camps. See, e.g., 82 FR 3630 (comments 12 and 18).

3. NPS revised 36 CFR 13.42 to add a paragraph (j) prohibiting the collection of living wildlife without an NPS permit and specifically disallowing use of State of Alaska and U.S. Fish and Wildlife Service permits and regulations for falconry. NPS also revised 36 CFR 13.480 to add a paragraph (b) only allowing certain types of bait to be used for subsistence bear baiting and adding paragraph (d) to 36 CFR 13.1902 to require a permit for use of other types of bait. NPS provided notifications of regulatory intent to the public and State of Alaska but limited consultations to specific closures. The title of the 2017

Rule characterized it as a “subsistence” rule, and the summary only referred to subsistence harvests, whereas the final rule included two new harvest closures unrelated to subsistence harvests (for falconry and bear baiting). The environmental assessment did not address the closures or acknowledge comments provided by subsistence users, the State of Alaska, gateway communities, Alaska Native corporations, tribal councils, advisory councils, and others concerned about the impacts and confusion resulting from new, undefined discretionary limits on public heritage activities and adaptive wildlife management, which may be available to view on a list of restrictions maintained by NPS without a public process.

The combined effect of these changes effectively expanded NPS’s authorities to limit harvests administered through State of Alaska, U.S. Fish and Wildlife Service, and Federal Subsistence Board regulations.

Secretarial Order 3347, issued March 2, 2017, directed the Department of the Interior (DOI) bureaus to advance conservation, increase recreation opportunities, and improve consultation with State of Alaska wildlife managers. On June 22, 2017, the DOI published a **Federal Register** notice (82 FR 28429) calling for identification of unnecessary regulations and, on July 14, 2017, ordered reconsideration of the entire 2015 Rule. S.O. 3356, issued on September 15, 2017, directed improved collaboration for public access and wildlife conservation. The NPS published a **Federal Register** notice on November 15, 2017 (82 FR 52868), of its intent to conduct a review of the 2015 Rule. S.O. 3366, issued on April 18, 2018, directed the DOI bureaus to ensure Federal regulations complement State regulations on surrounding lands and enhance recreational uses of public lands. Although S.O. 3347 and S.O. 3356 were cited in a proposed rule issued May 22, 2018 (83 FR 23621), NPS emphasized the reauthorization of specific hunting practices prohibited by the 2015 Rule and ignored significant impacts and issues in the 2015 and 2017 rules reiterated by the State of Alaska, subsistence users, and many others in oral and written comments.

The State of Alaska submitted extensive information and comments on the May 22, 2018, proposed rule to show the rulemaking effort, like the 2015 Rule, was focusing public attention on certain hunting and trapping methods and downplaying substantial changes to the decision-making process that public land users, the State, and the NPS’s conservation

partners rely on. Despite recognition that the 2015 Rule relied on inaccurate claims only “sport” hunting would be affected, and acknowledgement of the effects on displaced users, the May 22, 2018, proposed rule retained the 2015 and 2017 rules’ limited opportunities for residents who harvest for subsistence purposes under State and Federal regulations.

In 2019, the U.S. Supreme Court issued its second unanimous ruling in *Sturgeon v. Frost*, 587 U.S. 28 (2019), finding “Alaska is different” and the application of general NPS prohibitions to park units in Alaska must recognize the unique context and lifestyle that Congress sought to protect in ANILCA. Since general NPS regulations were the basis for determinations that became the 2017 Rule, and since strict application of those general regulations to Alaska creates barriers for priority public uses, cultural preservation, and traditional activities, the NPS is seeking public comment on returning to the Alaska-specific approach to managing these uses in effect before the 2017 Rule, as proposed, or on using a different approach consistent with NPS management responsibilities outlined in ANILCA and other authorities.

2020 Rule

On June 9, 2020, NPS published a final rule (2020 Rule; 85 FR 35,181), that removed paragraphs (f) and (g) from 36 CFR 13.42. These deletions removed the prohibition on State of Alaska actions related to predator reduction and the prohibition on the fourteen specific practices, including bear baiting. Most of the hunting methods restored by the 2020 Rule were already prohibited by the State and the other hunting methods had no impact on NPS resources.

The 2020 Rule did not address the other provisions of 36 CFR 13.42 added by the 2015 Rule, nor did it address the 2015 Rule’s removal of references to State law in 36 CFR 13.400, 36 CFR 13.470, and 36 CFR 13.480, changes to the closure procedures in 36 CFR 13.50 and 36 CFR 13.490, or the closure effected by 2015 Rule’s revisions to 36 CFR 13.40.

Similarly, the 2020 Rule did not address the closure effected by the 2017 Rule’s prohibition on collection of living wildlife in 36 CFR 13.42(j), including through a falconry permit, nor did it address the 2017 Rule’s limitation on subsistence uses by adding ANILCA to the definition of subsistence in 36 CFR 13.420, the subsistence bear baiting limitations imposed by the revisions to 36 CFR 13.480 and 36 CFR 13.1902, or the limitations imposed on subsistence plants and animal plant gathering

effected by the 2017 Rule’s revisions to 36 CFR 13.482 and 36 CFR 13.485.

In August 2020, several groups challenged the 2020 Rule and, in a September 2022 decision, a district court concluded the 2020 Rule violated the Administrative Procedure Act and remanded it to the NPS without vacatur. *See Alaska Wildlife Alliance v. Haaland*, 632 F. Supp. 3d 974, 1004–1005 (D. Alaska 2022). The district court’s ruling was appealed.

2024 Rule

On July 3, 2024, the NPS again published a final rule (2024 Rule; 89 FR 55,059) that examined and reinstated one of the harvest restrictions—the prohibition on bear baiting—in revisions to 36 CFR 13.42(f) and modified trapping regulations in Alaska preserves to preempt laws the State may enact in the future through revisions to the definition of “trapping” in 36 CFR 13.1. NPS also added a severability provision in 36 CFR 13.42(k). Nothing in the 2024 Rule addressed or modified the significant changes in policy interpretations adopted in the 2015 and 2017 rules regarding expanded NPS authorities based on values and removal of public participation in decisions involving access and traditional activities. In developing the 2024 Rule, the NPS narrowly sought input from Tribal entities, subsistence user groups, and the State of Alaska on the small set of proposed changes to harvest methods and trapping regulations. Likewise, there was no analysis of impacts of the 2015, 2017, and 2020 rules related to the 2024 Rule in the environmental assessment. After publication of the 2024 Rule, the appeal of the 2020 Rule was dismissed as moot and the district court’s decision was vacated.

On January 20, 2025, the President issued E.O. 14153, “Unleashing Alaska’s Extraordinary Resource Potential,” directing the Secretary of the Interior to, among other things, rescind the 2024 Rule and reinstate the 2020 Rule. E.O. 14153 also directed all bureaus in the DOI to ensure to the greatest extent possible that harvest opportunities on Federal lands are consistent with similar opportunities on State lands. Soon after, on January 31, 2025, the President issued E.O. 14192, “Unleashing Prosperity Through Deregulation,” directing all Federal agencies to alleviate unnecessary regulatory burdens. On February 3, 2025, S.O. 3422, “Unleashing Alaska’s Extraordinary Resource Potential,” directed the Assistant Secretary for Fish and Wildlife and Parks to develop an action plan describing the necessary and appropriate steps to execute direction in

E.O. 14153. On January 7, 2026, S.O. 3447, “Expanding Hunting and Fishing Access,” directed DOI bureaus to, among other things, remove unnecessary regulatory barriers to hunting and fishing on DOI-managed lands and to improve regulatory alignment with State wildlife agencies. The NPS developed this proposed rule consistent with that plan and these orders, with guidance from multiple stakeholder requests for specific actions addressing the full suite of regulatory and policy changes that began in 2015.

Requests for Action

Disputes and uncertainties persisted after the final rules issued in 2015 and 2017, as stakeholders continued to comment on, litigate, and demand closer review of the modifications and supporting information. Multiple stakeholder groups were involved in challenging and defending the 2015 and 2020 rules in court on matters that were not fully addressed by the regulatory actions that resolved those cases, meaning disputes and uncertainties are likely to continue. For example, no rulemaking effort since 2015 has attempted to address or reconsider modifications to the closure process or the disproportionate impact on Alaskans, Tribes, local businesses, and public land users less affected by the harvest provisions, including subsistence users.

A “Petition for New Rulemaking Regarding Hunting on National Preserves in Alaska” (Petition) was filed on August 9, 2017, by the Sportsmen’s Alliance Foundation and Alaska Professional Hunters Association seeking repeal of the 2015 Rule to restore the pre-2015 status quo of harvests and access administered through the well-understood, decades-old procedures. The Petition noted the environmental assessment and finding of no significant impact for the 2015 Rule suggested that no significant adverse impact on NPS resources was likely to occur under the State management regime preempted by the rule. Preemption of those authorities changed again in the 2020 and 2024 rules. Through this rulemaking, NPS can examine, compare, and learn more from the public about the five-year period with the 2015 Rule restrictions and the five-year period that followed to assess the environmental impacts and build on prior determinations.

The Alaska-based chapters of Safari Club International filed a similar request with the DOI on September 15, 2017, to rescind the entire 2015 Rule and parts of the 2017 Rule, noting strenuous objections and new information

provided by the affected public and State managers were ignored in both the 2015 and 2017 rules. This request questioned the sufficiency of evidence supporting the precautionary protection of NPS resource values that supersedes procedures adopted by the DOI in 43 CFR part 36 to safeguard public access and activities protected in ANILCA.

The NPS received another request from Safari Club International on May 19, 2025, again asking the DOI Secretary to rescind the 2015 Rule and parts of the 2017 Rule in addition to rescinding the 2024 Rule, providing comments previously submitted by the State of Alaska and a coalition of Alaska conservation organizations amplifying similar concerns raised in a prior rulemaking (Docket #NPS RIN 1024–AE38).

The Alaska Outdoor Council, an organization of outdoor clubs and individuals who participate in harvests, access, and other activities on Alaska’s public lands, submitted a Petition for Rulemaking to the Interior Department on October 10, 2025, to restore the pre-2015 policies and regulations by repealing the 2015 Rule, parts of the 2017 Rule, and the 2024 Rule. The Petition described impacts on Alaskans from changes since 2014, deficiencies in public information and consultation in the sequential rulemaking processes, and failure to meet the standard set in *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009), that would justify the significant changes NPS made in 2015 and 2017 to the well-established regulations and policies in use for over three decades. The Petition proposed a preamble identifying agency considerations and specific changes to restore the pre-2015 regulations and policies that implemented ANILCA protections for access, public participation, and State consultation in management decisions, and for State-authorized harvests in Alaska’s parks and preserves.

Proposed Changes

By rescinding these new and modified regulations, the NPS proposes to restore the procedures for restricting and closing public entry and access on national park lands to the language and procedures in 43 CFR 36 and 36 CFR 13 in effect before the 2015 Rule. The proposed changes would remove changes made through the 2015, 2017, and 2024 rules that insulated managers from public involvement, removed required consultation with the State, and allowed for discretionary closures without unique criteria established in the regulations to comply with ANILCA. The proposed rule restores and

maintains the NPS’s authority to restrict public access, entry, and uses for reasons provided under the closure procedures in effect since the preserves were established in Alaska.

Consistent with *FCC v. Fox Television Stations, Inc.*, 556 U.S. at 515–16, NPS acknowledges its awareness this proposed rule represents a change in position from that taken in the 2015, 2017, and 2024 rules. For the reasons that will be discussed below, the NPS preliminarily concludes the proposed rule: (1) is permissible under ANILCA and the NPS Organic Act; (2) is better than the 2015, 2017, and 2024 rules; and (3) is supported by good reasons. NPS cannot finalize these conclusions at this time because it needs to receive and consider public comments and develop a final rule.

With specified exceptions for unrelated changes, the NPS proposes to restore its longstanding Alaska-specific regulations at 36 CFR part 13 by rescinding changes made in the 2015 Rule, 2017 Rule, and 2024 Rule, that:

- unnecessarily preempt State law;
- frustrate effective management of fish and wildlife resources in Alaska park units, including for subsistence;
- interfere with management of wildlife resources by other bureaus and offices in the DOI with delegated authorities from the DOI Secretary, including the Federal Subsistence Board and the U.S. Fish and Wildlife Service;
- eliminate public notice and engagement on NPS management decisions, including for subsistence users guaranteed a “meaningful role in the management of fish and wildlife and of subsistence uses” (16 U.S.C. 3111);
- are substantially similar to regulations for Alaska national wildlife refuges nullified by Congress in 2017 through the Congressional Review Act; and
- cannot demonstrate a verifiable basis for limiting public access and land uses.

The NPS has determined the 2015 Rule and 2017 Rule fundamentally altered the management framework Alaskans relied on following ANILCA for a sustainable harvest of fish and wildlife, to preserve culture, to conserve and protect lands and resources, and to pass on traditions. These rules unnecessarily interfere with the decision-making process outlined in ANILCA and the DOI regulations at 43 CFR part 36 protecting access and public use on NPS-administered lands in Alaska.

Evaluating the full scope of revisions at 36 CFR part 13 that originated in the 2015 Rule, and recommendations and information provided in the requests for

action described above, aligns with the President's and the DOI Secretary's directions to remove unnecessary regulatory burdens on public lands users, meaningfully consult with the State, and ensure harvest opportunities on Federal lands are consistent with similar opportunities on State lands.

Based on a review of the full record, the NPS has preliminarily determined this proposed rule is a substantial improvement and that changes to NPS regulations in 2015, 2017, and 2024 were not necessary to protect wildlife or visitor safety, making their continued application inconsistent with ANILCA and NPS management policies. The NPS requests public input on this preliminary conclusion, particularly regarding any desirable modifications that resulted in positive outcomes for park users, affected communities, and regional management partners.

The NPS is also reconsidering conclusions that supported these prior rulemakings, taking into account deficiencies and concerns identified by requests for action, in public comments, and during litigation. For example, the importance of creating space for Alaska's system of dual management in the State's and NPS's respective decision frameworks has been a common concern shared by Tribes, the State, and regional stakeholders since the 2015 Rule. In the preamble to that rule, NPS concluded the word "subsistence" in ANILCA and its implementing regulations means subsistence activities by rural residents under Federal laws, rather than the customary and traditional uses of Alaska's fish and wildlife that is regulated and prioritized under both State and Federal laws. See 80 FR 64,329. Corresponding edits to 36 CFR 13.470 and 13.480 removed the incorporation of State laws by reference and had the unintended effect of displacing State laws governing those uses. Allowances in 36 CFR 13.400 for subsistence uses to occur consistent with applicable State and Federal law have not proven effective at maintaining the balance struck in the pre-2015 regulations that park users and resource managers relied on for 35 years, which this rulemaking proposes to restore.

This proposed rule would effect these changes by, among other things, restoring the appropriately balanced references to State law in 36 CFR 13.40, 36 CFR 13.400, 36 CFR 13.420, 36 CFR 13.470, and 36 CFR 13.480 from the pre-2015 rules. As part of the restoration of 36 CFR 13.40, certain measures moved out of that provision by the 2015 Rule and put into 36 CFR 13.42, will be

restored through edits to 36 CFR 13.40 and deletion of 36 CFR 13.42.

This proposed rule repeals the significant changes to legal and policy interpretations of State authority to regulate harvests and NPS authorities to preempt such harvests, including the assertion of discretionary authority to regulate subsistence uses adopted in the 2015 and 2017 rules. This proposed rule more closely aligns harvest regulations in national preserves in Alaska with State of Alaska regulations, ensuring that hunting opportunities on preserve lands are consistent with similar opportunities on State, private, and other Federal lands, as they were before the 2015 Rule. This alignment reduces unnecessary regulatory burdens inherent in conflicting and redundant harvest regulations in Alaska, where evolving land ownership is checker-boarded with Federal designations, State lands, Native Corporation lands, and various allotments, upon which wildlife populations move freely throughout.

This proposed rule would eliminate the potential for conflict in the 2015 changes to 36 CFR parts 1 and 13 with the DOI regulations implementing ANILCA at 43 CFR part 36 that specify public involvement and criteria prior to closing park lands to public access and protected uses. The 2015 Rule and 2017 Rule changes to 36 CFR part 13 reduced public involvement in the closure process. These rule changes also expanded the authority the NPS historically exercised: (1) to regulate subsistence harvests, including unintentionally preventing federally qualified users from participating in subsistence harvests on over 20 million acres of national preserves; and (2) to regulate fish and wildlife populations traditionally, and appropriately, managed by the State under the Alaska Constitution. Reinstatement of the pre-2015 closure process includes restoring the closure timelines Alaskans requested and relied on, notifications that were replaced by an overreliance on electronic communications, and long-standing requirements for meaningful consultation with the affected public and the State, using defensible criteria for discretionary closures consistent with ANILCA.

Further, this proposed repeal of the remainder of the 2015 Rule is consistent with, although not required by, Public Law 115–20 (April 3, 2017), whereby Congress disapproved a parallel final 2016 rule enacted for national wildlife refuges in Alaska. Regardless of whether the 2015 Rule for national preserves was "substantially the same" or not, both the national wildlife refuge and NPS rules

prohibited similar hunting practices with similar amendments to regulations enacted to implement ANILCA, were developed simultaneously within the DOI, and applied to millions of acres of land across all regions of Alaska, with similar impacts to the same wildlife populations and public uses. Comments made in passing Public Law 115–20 noted the NPS 2015 Rule "also deserves repeal" as it similarly portended to address certain harvest methods while making other significant procedural changes. If adopted, this proposed rule would satisfy multiple requests to restore fish and wildlife management in Alaska to a regulatory framework consistent with ANILCA that existed for decades with no impacts on NPS resources, as acknowledged throughout this process.

For the most part, this proposed rule does not directly address subsistence harvest by rural residents regulated under Title VIII of ANILCA, but it helps alleviate the incidental burdens on subsistence imposed by the 2015 and 2017 rules, among other things.

The other two bases upon which the district court found the 2020 Rule violated the Administrative Procedure Act were addressed by certain statements in the preamble to the 2024 Rule. Those statements are not disturbed by this proposed rule.

Bear Baiting

This proposed rule would remove a prohibition established by the 2015 Rule on using bait to attract or take bears on national preserves in Alaska, preempting long-standing, recent, and future State regulations governing the use, where authorized. The prohibition was removed by the 2020 Rule, then reestablished by the 2024 Rule. Removing this prohibition would restore application of State of Alaska hunting regulations in effect for decades before the 2015 Rule and between the 2020 Rule and the 2024 Rule. See 5 AAC 92.085(4), 92.044. In the 2024 Rule, the NPS stated prohibiting bear baiting was supported by public safety concerns and informed by NPS policy that directs the NPS to promote the safety of those who visit National Park System units (see 2006 NPS Management Policies, section 8.2.5). The NPS also stated that prohibiting bear baiting was supported by NPS policy that directs the NPS to protect natural wildlife populations (see 2006 NPS Management Policies, section 4.4.2). This proposed rule responds to the opportunity afforded in current direction to invite public input on the result of these changes and examine any

lessons learned from this practice being allowed and prohibited.

As shown by the above summary of the 2015 and 2024 rules' treatment of this practice, the NPS is aware this proposed rule would be a change in policy from the 2015 and 2024 rules. *Fox*, 556 U.S. at 515–16. So far as the other *Fox* factors are concerned, the NPS's discussion below will show how: (1) allowing the practice is permissible under ANILCA and the NPS Organic Act; (2) NPS believes this proposed rule is better than the previous rules; and (3) the proposed rule is supported by good reasons. These conclusions are preliminary because this is a proposed rule. The NPS will update these conclusions as appropriate for whatever final rule the NPS develops.

The NPS notes the 2015 Rule was not based on "factual findings" that would implicate the need for a "reasoned explanation" for disregarding those findings. See 80 FR 64,334 (response to comment 19). To the extent the 2024 Rule purported to have been based on "more recent factual findings," the NPS's discussion below will provide the "reasoned explanation" for disregarding them.

Before addressing the *Fox* factors, the NPS acknowledges that one of the district court's bases for concluding the 2020 Rule violated the Administrative Procedure Act was the NPS's disregard without explanation of its conclusion in the 2015 Rule that State regulations fail to address public safety concerns associated with bear baiting. *Alaska Wildlife Alliance*, 632 F. Supp. 3d at 1005. In this proposed rule, the NPS explains why State regulations partially mitigate public safety concerns from bear baiting, even though there may be some non-compliance. To the extent it appears in the future that the 2015 or 2024 rules' concerns regarding non-compliance with State regulations might pose unacceptable risks to public safety, the NPS is confident the proposed rule allows any such risks to be addressed with closures, enforcement actions, or other measures, as appropriate and consistent with ANILCA.

In regard to public safety concerns informed by NPS policy, the NPS estimates very few individuals used bait to attract or take bears when this practice was governed by State of Alaska regulations from 1982 until the 2015 Rule prohibition and between the 2020 Rule and the 2024 Rule. The NPS has no reason to believe this practice will occur more frequently than it did during those periods if once again governed by State of Alaska regulations. The NPS expects there would be few baiting stations established and the

number of bears taken at stations would be low. It is difficult to predict how many more bears might be taken due to the proposed rule, and thus how much more bear baiting might occur, because neither the NPS nor the State of Alaska maintain data on the total number of bears taken over bait in national preserves in Alaska when this practice was allowed in previous years.

The NPS evaluated several data sources to estimate the total number of bears that could be expected to be taken over bait as a result of this proposed rule. Miller et al. (2017) found that more liberalized hunting regulations for brown bears, including bear baiting, resulted in an increased harvest of brown bears on Alaska's Kenai Peninsula. However, compared to the Kenai Peninsula, most national preserves in Alaska are more difficult to access for the purpose of bear baiting. Hilderbrand et al. (2013) estimated that less than 2 black bears per year were harvested over bait in national preserves in Alaska when this practice was allowed during the period from 1992 to 2010. Most bears were harvested along the McCarthy Road corridor in Wrangell-St. Elias National Park and Preserve, due to this being one of the few areas with an extensive road network. Other national preserves in Alaska are rural and roadless, making it difficult to establish bait stations. Although there are no data specific to the harvest of brown bears over bait in national preserves, data from the State of Alaska reveals that between 2012 and 2016, 40 brown bears were taken over bait in certain areas where baiting is allowed and that are adjacent to, within, or overlap with, national preserves (NPS, 2019a; SOA, 2018). This indicates a total of approximately 8 brown bears per year. These harvest numbers are not specific to national preserves, however, and it is possible that the harvest of brown bears would be similar to that of black bears (*i.e.*, 2 per year). The NPS estimates that very few hunters used bait to attract or take bears in national preserves when this practice was governed by State of Alaska regulations between the 2020 Rule and the 2024 Rule.

Based on the available data, compared to baseline conditions, NPS anticipates that the proposed rule would result in the harvest of no more than 10 bears per year (2 black bears and up to 8 brown bears, where authorized). Thus, because any increase in bear baiting is expected to be minimal, NPS also expects that whatever additional public safety risk may be created, if any, would be minimal as well.

Statements made by Tribes, Alaska Native Claims Settlement Act (ANCSA) corporations, and the State of Alaska during pre-consultation on this rule support these estimates. These entities largely opposed the prohibition in the 2015 Rule and 2024 Rule, and the limitations on subsistence users in the 2017 Rule, as unnecessary due to limited participation and no instances of public safety issues, and confusing due to long-standing, data-informed, user-led regulation through the State and Federal boards.

The NPS identified two primary risk factors in the 2024 Rule related to bear baiting. The first factor was risk to public safety from bears defending a food source. The NPS finds several considerations diminish risks to public safety from bears defending a food source at a bait station. State of Alaska regulations require a permit and bait station areas be signed and located more than ¼ mile from publicly maintained roads (including logging roads, if they are publicly maintained), trails, and the Alaska Railroad, and more than one mile from a house or other permanent dwelling (except for cabins on the opposite side of a major river system), a business, a school, a developed campground, or developed recreational facility. See 5 AAC 92.044. In addition, the State requires all bait stations be registered with the Alaska Department of Fish and Game (ADF&G) and all persons wishing to register a bait station be at least 18 years of age (increased from age 16 in 2017), and to have successfully completed an ADF&G-approved bear baiting clinic either in person or online. ADF&G continually updates and improves access to online materials concerning bear baiting requirements, guidance, safety and ethics; and may prohibit bear baiting in local areas for a variety of reasons including public safety. NPS records indicate the majority of bait stations in Wrangell-St. Elias National Preserve did not comply with the State's minimum distance requirements, but no public safety issues were reported. The NPS reaffirms its conclusion in the 2024 Rule that State regulations may reduce public safety risks associated with bait stations and there is minimal risk of visitors approaching a bear defending bait.

The NPS expects this rule would result in very few bait stations established across all national preserves. Even if some stations are established in unauthorized locations, measured against the total population of visitors to national preserves in Alaska, the risk to public safety from bears defending a food source at unauthorized locations would be extremely low.

Regarding theoretical risks to public safety from bears that might become habituated and conditioned to human food at bait stations, the State of Alaska Board of Game commented on the 2024 Rule that it had no information on bear baiting causing safety concerns by habituating bears to human-provided food and had found no fact-based support for this concern in any state that allows bear baiting. See letter dated March 9, 2023, from the Alaska Board of Game to the NPS Regional Director.¹ This is consistent with the Board of Game Chair's comments on the 2014 proposed rule, and similarly repeated by the State and many others during each of the rulemakings, that there is no evidence bears visiting bait stations become conditioned to human-provided foods; the bears are likely to be harvested and those not harvested may become site-conditioned to revisit that site. (Comment ID NPS–2014–0004–1223). The 2024 Rule cited one study (Herrero, S. 2018) in support of determining the risk factors of bear baiting which, upon further review, the NPS determined is not relevant to bear bait stations in remote areas; it is only relevant to human-bear conflicts created by associating people with campgrounds and other human congregation points with regular food sources.

The 2024 Rule noted as “another consideration” that bear baiting would increase the number of food conditioned bears and that those bears would be more likely to be killed in defense of life or property. As NPS's discussion above demonstrates, there is no reason to expect bear baiting will result in more food conditioned bears and more bears taken in defense of life and property because the practice has not had that effect when authorized in the past.

The 2024 Rule also identified the prohibition on bear baiting in Denali State Park as a supporting basis for prohibiting bear baiting in national preserves. 89 FR 55,063. While there may be situations in which consistency between management of State parks and national preserves is preferable, the NPS now concludes that this is not the situation with bear baiting. Among other possible reasons why the inconsistency is appropriate here, Denali State Park is approximately 300,000 acres while national preserves make up approximately twenty-two million acres. Accordingly, prohibiting bear baiting in national preserves has a much

more restrictive effect than prohibiting bear baiting in one State park.

The 2024 Rule placed substantial weight on a query of 28 bear management and research biologists from across North America to support a ban on bear baiting on national preserves in Alaska. Respondents provided their opinions of public safety risks from bears defending a food source and expressed views of baiting as the functional equivalent of feeding bears that may alter their natural behavior. The query did not specifically request their opinions about risks to public safety if bears become habituated to human food at bait stations, which the NPS expects would exist in very low numbers as a result of this rule. Although the query of biologists is perhaps useful for understanding potential risks, the NPS now finds the lack of data on any particular public safety risks from bear baiting in Alaska is more persuasive. The NPS finds the State of Alaska's experience particularly relevant here given that the State has allowed bear baiting since before the 2015 Rule without experiencing any notable public safety concerns. The NPS expects that if bear baiting caused public safety issues, the State would be aware of them through its active monitoring and research activities and its bear baiting management. Thus, the NPS now considers the speculative risks identified in the survey less persuasive than the State's experience in not encountering public safety concerns from bear baiting.

Section 8.2.5 of NPS Management Policies acknowledges it is not possible to eliminate all hazards in NPS System units, in particular in areas managed as natural environments. To the extent they exist, this policy does not require the NPS to eliminate all potential risks to public safety from infrequent bear baiting in national preserves in Alaska. The NPS manages national preserves as natural environments that present numerous risks to public safety that cannot be completely eliminated. No documentation exists of public safety issues under State management of bear baiting on other Federal, State, and private lands or on preserve lands prior to the 2015 Rule or when allowed between the 2020 Rule and 2024 Rule. For these reasons, the NPS has determined that a complete prohibition on using bait to attract or take bears on national preserves in Alaska and limitations on the use in the 2017 Rule are not supported by public safety concerns. This conclusion is further supported by comments from Tribal governments on the 2017 Rule, noting subsistence users have been harvesting

bears over bait for decades without incident, and that food-conditioned bears are most likely to be attracted to bait stations with human food items and harvested to reduce the potential for a public safety issue. (Comment ID NPS–2016–0001–0011).

Although the NPS primarily relied upon public safety concerns to support closures in 2015, 2017, and 2024, the NPS also indicated closure was consistent with NPS policy to protect natural wildlife populations (see 2006 NPS Management Policies, section 4.4.2). The NPS has further considered the application of this policy to bear baiting and concludes that 2006 NPS Management Policies, section 4.4.2 is not an appropriate justification for banning or preempting the management of this activity in Alaska. This conclusion is based upon the estimated low number of bears taken over bait between the 2020 Rule and the 2024 Rule, which indicate that allowing bear baiting to occur again under State of Alaska and Federal Subsistence Board regulations would not create population-level concerns. This conclusion is further supported by statements from the State of Alaska Board of Game made in comments on the 2024 Rule, that it has information that hunting bears over bait focuses the harvest on mature bears while avoiding female and immature bears and, therefore, is part of an effective game management strategy. See letter dated March 9, 2023, from the Alaska Board of Game to the NPS Regional Director. Furthermore, we note the district court's September 2022 decision affirmed NPS's conclusions that the practices authorized in the 2020 Rule, which included bear baiting, would not adversely impact wildlife populations or contravene NPS's statutory duties. *Alaska Wildlife Alliance*, 632 F. Supp. 3d at 1002. There is no new or additional data that has become available since the 2020 Rule or the district court's 2022 decision to suggest that reinstating bear baiting now will have population-level effects on bears.

Experience managing public uses by the NPS and the State of Alaska since bear baiting was authorized in 1982, with and without restrictions in place, has identified no areas where harvest authorized by the Alaska Board of Game or Federal Subsistence Board presents a public safety concern. If any are identified, the NPS maintains the authority to close that area to harvest, as outlined in 36 CFR 13.50 and 13.490.

This change would be effected by the proposed rule's deletion of 36 CFR 13.42, which currently includes a prohibition on bear baiting in 36 CFR

¹ Available at <https://www.regulations.gov/comment/NPS-2023-0001-13341> (last accessed Feb. 18, 2026).

13.42(f). As with the entirety of the proposed rule, the NPS is aware this proposed rule would represent a change in position from the 2015 and 2024 rules and finds the new policy represented by this proposed rule is better than the policies implemented in the 2015 and 2024 rules, that the proposed rule is supported by good reasons, and that, to the extent the 2015 and 2024 rules relied on factual findings, the above discussion provides a reasoned explanation for disregarding those previous findings. And again, all these conclusions are preliminary and will be revisited and updated as the NPS hears from the public and finalizes a rule on this and the other topics addressed by this proposed rule.

Definition of Trapping

The 2024 Rule attempted to clarify the definition of “Trapping” in 36 CFR 13.1 to limit circumstances under which individuals can use firearms to take furbearers under a State of Alaska trapping license, notwithstanding what that license may allow. The NPS has determined this clarification did not contribute to clarity and is unnecessary and, therefore, is inconsistent with E.O. 14192 to reduce unnecessary regulations. The NPS also determined that the 2024 Rule is inconsistent with the direction in E.O. 14153 to ensure to the greatest extent possible harvest opportunities on Federal lands are consistent with similar opportunities on State lands. State of Alaska regulations address the circumstances in which furbearers may be taken by firearm (5 AAC 92.075(d), 92.095(a)(8)) and the NPS requests public input on the need to establish different rules. The 2024 Rule stated that clarifying the definition would more closely align the definition of “trapping” for NPS System units in Alaska with the definition that applies to other NPS System units outside of Alaska. This reasoning does not independently support the preemption of State law. Accordingly, the proposed rule would revise the definition of “Trapping” and remove the definition of “Furbearer” in 36 CFR 13.1 for being unnecessary.

Live Wildlife Collection

In the 2017 Rule, the NPS addressed public inquiries about the collection of raptor chicks in national preserves for training and use in hunting, clarifying that the activity itself is not considered hunting and is therefore prohibited in national preserves. This closure was based on general System-wide prohibitions at 36 CFR 2.2(a)(2) and was adopted through a categorical exclusion for modifications to existing regulations

that do not increase use. Falconry activities in Alaska are managed through State regulations (5 AAC 93.037) and U.S. Fish and Wildlife Service regulations (50 CFR 21.82 and 21.85), including the collection of live chicks for training. The NPS proposes to restore that management through full deletion of 36 CFR 14.42, including (j), and requests input on the necessity for and impacts realized under full prohibition in the 2017 Rule.

Subsistence Collection

ANILCA authorizes subsistence collection as the priority public use of most Alaska park units, including “for barter, or sharing for personal or family consumption; and for customary trade,” and requires management actions “cause the least adverse impact possible on rural residents who depend upon subsistence.” 16 U.S.C. 3112–13. At the request of subsistence resource commissions organized under ANILCA section 808, the NPS and subsistence users collaborated for nearly a decade to resolve a regulatory gap for collecting nonedible natural items for the creation of handicrafts, including a 2012 environmental assessment. While two individual Alaska NPS park units closed the gap with a simple allowance in regulation, see 36 CFR 13.1006 and 13.1504, the NPS identified a potential conflict with unregulated use and NPS System-wide regulations at 36 CFR 2.1, 2.2, and 5.3, prohibiting similar activities by the general public. The 2017 Rule purported to resolve this conflict and minimize the potential for adverse impacts to NPS resources and values through the creation of a mandatory permit system and other restrictions.

The NPS proposes to rescind the 2017 Rule in its entirety, including limitations on subsistence bear baiting (by deleting 36 CFR 13.1902(d)) and the collection of wildlife for falconry (by deleting 36 CFR 13.42, including (j)), as discussed above, as well as the attempt to resolve this perceived conflict in NPS authorities with closures and additional procedures that are no longer justified by any management needs. Removal of language is not intended to affect any authorized uses. The proposed rule would effect these changes through deleting the definition of “animal parts” and “handicraft” in 36 CFR 13.420 and by removing 36 CFR 13.482, and revising 36 CFR 13.485. These changes will reduce the regulatory burden on users, not institute prohibitions. For example, deleting 36 CFR 13.482 that was added as part of the 2017 Rule, does not mean the uses it describes are no longer authorized; it means they will

not be conditioned by the regulations added in 2017. The NPS would like input on any uses that may be affected by full rescission. The two park-specific regulations regarding the definition of “customary trade” are retained and other parks may enact the same or a similar provision if the conditions require it. The NPS would also like input on whether a similar provision should be adopted as a State-wide clarification in 36 CFR 13.420.

Public Closure Procedures

The NPS proposes to restore its long-standing procedures for engaging the public in management decisions to respond to identified challenges with the revised approach, align with administrative direction to reduce the regulatory burden on the public, and eliminate the potential for conflict between DOI regulations at 43 CFR part 36 and NPS regulations at 36 CFR part 13 by ensuring limitations on public access and use are consistent with ANILCA. The proposed rule would accomplish this by revising 36 CFR 13.50 and 36 CFR 13.490 as necessary to restore the pre-2015 language. For example, the 2015 Rule removed the provision formerly at 36 CFR 13.50(h) and its specific criteria, duration, and notice requirements for “Facility closures and restrictions”, as well as the unique procedures for “Openings” in 36 CFR 13.50(g). Other than re-lettering, no changes to these provisions had been included in the proposed rule. Among other things, this change eliminated the opportunity to request hearings “in the affected vicinity and other locations as appropriate” before a final opening determination is made. Facility closures and openings become effective on posting to the NPS website. 36 CFR 13.50(f). This is not always a reliable means of notifying people accessing facilities in Alaska’s remote parklands, especially since the 2015 Rule also removed the requirement for local radio station and newspaper announcements of proposed closures.

The 2015 Rule also replaced statutory “criteria” in the Alaska-specific closure process with “factors” drawn from emergency closure criteria, and including any “other management considerations.” 36 CFR 13.50(b). The 2015 Rule replaced three well-established closure durations with six new closure categories: non-emergency, emergency, emergency and related to the take of fish or wildlife, non-emergency and related to the take of fish or wildlife, related to the take of wildlife and prohibited under other new provisions in the 2015 Rule, and rulemaking-eligible closures. The

proposed rule doubled the only remaining durational requirement (for emergency closures and restrictions), 36 CFR 13.50(e)(2), which became a less finite “duration of the emergency” in the final rule (except for harvest restrictions). See 80 FR 64,327 and 64,340 (response to comment 56). In this proposed rule, NPS seeks public comment on the impact of these changes and whether the increased complexity is beneficial for users.

Severability

The 2024 Rule added a severability provision to 36 CFR 13.42(k) that the NPS has determined is unnecessary and that would be deleted by the proposed rule.

Proposed Rule

For the reasons stated above, the NPS proposes to rescind the remainder of the 2015 Rule and to rescind the 2017 and 2024 rules in their entirety. The proposed changes would restore the management of park lands in Alaska to the regulatory framework in effect since passage of ANILCA in 1980 and restore State regulatory authority for management of hunting, fishing, and trapping as practiced in Alaska since statehood.

Ministerial edits have been made to the regulatory text that is being restored to conform to current **Federal Register** drafting standards.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review E.O.s—12866 and 14192

This rule has been determined to be significant for purposes of E.O. 12866 and has been submitted for review by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB). This proposed rule is expected to be an E.O. 14192 deregulatory action.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The NPS has certified that the 2015 Rule, the 2017 Rule, the 2020 Rule, and the 2024 Rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*). These certifications were based upon cost-benefit and regulatory flexibility analyses found in reports for each of those rules.² This rule would restore

regulations for hunting, fishing, trapping, and other natural resource harvest in national preserves that existed before the 2015 Rule. This rule would rescind changes to such regulations made by the 2015 Rule, the 2017 Rule, and the 2024 Rule, without making any other changes to the regulations. As a result, the NPS expects that this rule also would not have a significant economic effect on a substantial number of small entities under the RFA.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The proposed rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of lands and waters administered by the NPS and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings—E.O. 12630

This proposed rule would not effect a taking of private property or otherwise have takings implications under E.O. 12630. A takings implication assessment is not required.

Federalism—E.O. 13132

Under the criteria in section 1 of E.O. 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform—E.O. 12988

This proposed rule complies with the requirements of E.O. 12988. This proposed rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes and ANCSA Corporations—E.O. 13175 and Department Policy

The DOI strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. This proposed rule was informed by feedback from Tribal entities. In April 2025, the NPS invited Tribes and ANCSA Corporations to participate in pre-consultation regarding NPS's wildlife management practices in Alaska. The NPS continues to incorporate feedback received, and to meet with all Tribal entities that requested a meeting. The NPS has evaluated this rule under the criteria in E.O. 13175 and under the Department's Tribal consultation and ANCSA Corporation policies. Because the rule does not restrict Title VIII subsistence harvest and feedback from Tribes and ANCSA Corporations indicates using bait to attract or take bears on national preserves is uncommon, the rule will not have a substantial direct effect on federally recognized Tribes or ANCSA Corporation lands, water areas, or resources. Consultation and communication with Tribes and ANCSA Corporations is ongoing and feedback will continue to be considered by the NPS throughout the rulemaking process.

The NPS reviewed the input by local Alaska Native Tribes and Corporations, Federal Subsistence Regional Advisory Councils, NPS Subsistence Resource Commissions, and others during the comment period for the 2015 Rule and determined there was significant opposition to the 2015 Rule largely overlooked. For example, the Alaska Federation of Natives at their 2014 Annual Convention adopted Resolution 14–42, which found the rule “is overreaching, vague, and indiscriminate and would further criminalize Alaska Native traditional resources management practices” and “that the National Park Service should not adopt” it. Tanana Chiefs Conference similarly found “the proposed rule does impact subsistence use, Tribes, and ANCSA corporation’s land” and, for a number of reasons, “opposed the proposed rule.” Ahtna, Incorporated objected to the proposed rule as it “contains misleading information, difficult to understand and read, and creates mistrust between the public and National Park System.” Ahtna, like many others, pointed out

² The cost-benefit and regulatory flexibility analyses can be found as follows: 2015 is available at <https://parkplanning.nps.gov/document>.

[cfm?parkID=1&projectID=49062&documentID=61262](https://parkplanning.nps.gov/document.cfm?parkID=1&projectID=49062&documentID=61262) (last accessed Feb. 18, 2026); 2017 is available at <https://parkplanning.nps.gov/document.cfm?parkID=1&projectID=35955&documentID=70264> (last accessed Feb. 18, 2026); 2020 is available at <https://parkplanning.nps.gov/document.cfm?documentID=105761> (last accessed Feb. 18, 2026); 2024 is available at <https://www.regulations.gov/document/NPS-2023-0001-18040> (last accessed Feb. 18, 2026).

how prior rulemakings claimed to not affect Federal subsistence users but “the fact of the matter is that this action will have an effect on rural users of the National Park System.” Many of the above organizations complained there was no consultation prior to publication of the proposed rule finalized in 2015 and the limited consultation focused on justifying prohibitions of methods of harvests without discussing the changes to public involvement and closure criteria for access to park lands and public uses. Consistent with many similar comments by these affected Tribes and other groups, the NPS finds no substantive basis for the changes made by the 2015 Rule to the status quo in effect since passage of ANILCA.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)

The NPS will prepare an environmental assessment to determine whether this proposed rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act. The environmental assessment will include appropriate new information and an analysis of impacts evaluated in the environmental assessments prepared for the 2015 Rule, the 2017 Rule, the 2020 Rule, and the 2024 Rule, all of which resulted in a finding of no significant impact. The environmental assessment will incorporate feedback received during pre-consultation, consultation with Tribes and ANCSA Corporations, and during public comment periods.

Energy Supply, Distribution or Use—E.O. 13211

This proposed rule is not a significant energy action under the definition in E.O. 13211; the proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A statement of energy effects is not required.

Clarity of This Proposed Rule

The NPS is required by E.O.s 12866 (section 1(b)(12)) and 12988 (section

3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that the NPS has not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Participation

It is the policy of the DOI, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the ADDRESSES section of this document.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

- 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 3101 et seq.; 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Pub. L. 104–333, Sec. 1035, 110 Stat. 4240, November 12, 1996.

- 2. In § 13.1:
 - a. Remove the definition of “Furbearer”; and
 - b. Revise the definition of “Trapping”. The revision to read as follows:

§ 13.1 Definitions.

* * * * *

Trapping means taking furbearers under a trapping license.

* * * * *

- 3. In § 13.40 revise the section heading and paragraphs (d) and (e) to read as follows:

§ 13.40 Taking of fish and wildlife.

* * * * *

(d) *Hunting and trapping.* (1) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulations.

(2) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(3) Engaging in trapping activities as the employee of another person is prohibited.

(4) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox, wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(5) Persons transporting wildlife through park areas must identify themselves and the location where the wildlife was taken when requested by an NPS employee or other authorized person.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of § 13.50. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

§ 13.42 [Removed]

- 4. Remove § 13.42.
- 5. Revise § 13.50 to read as follows:

§ 13.50 Closure and restriction procedures.

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection,

protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the taking of fish and wildlife shall be accomplished by notice and hearing.

(2) Other emergency closures shall become effective upon notice as prescribed in paragraph (f) of this section; and

(3) No emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate;

(2) Temporary closures shall be effective upon notice as prescribed in paragraph (f) of this section; and

(3) Temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary, and permanent closures or restrictions shall be:

(1) Published in at least one newspaper of general circulation in the state and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public;

(2) Designated by the posting of appropriate signs; or

(3) Both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as

appropriate prior to making a final determination.

(h) *Facility closures and restrictions.* The Superintendent may close or restrict specific facilities for reasons of public health, safety, and protection of public property for the duration of the circumstance requiring the closure or restriction. Notice of facility closures and restrictions will be available for inspection at the park visitor center. Notice will also be posted near or within the facility, published in a newspaper of general circulation in the affected vicinity, or made available to the public by such other means as deemed appropriate by the Superintendent. Violating facilities closures or restrictions is prohibited.

(i) *Prohibitions.* Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

■ 6. In § 13.400, redesignate paragraph (e) as paragraph (f) and add a new paragraph (e) to read as follows:

* * * * *

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

* * * * *

■ 7. In § 13.420:

■ a. Remove definitions for “Animal parts” and “Handicraft”; and

■ b. Revise the definition for “Subsistence uses”.

The revision reads as follows:

§ 13.420 Definitions.

* * * * *

Subsistence uses. As used in this part, the term “subsistence uses” shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) “Family” shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) “Barter” shall mean the exchange of handicrafts or fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) “Customary trade” shall be limited to the exchange of furs for cash.

■ 8. Revise § 13.470 to read as follows:

§ 13.470 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.3 of this chapter and 13.40. Provided, however, that local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law.

■ 9. Revise § 13.480 to read as follows:

§ 13.480 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law.

§ 13.482 [Removed]

■ 10. Remove § 13.482.

■ 11. In § 13.485:

■ a. Revise paragraph (b);

■ b. Remove paragraphs (c) through (e); and

■ c. Redesignate paragraph (f) as paragraph (c).

The revision reads as follows:

§ 13.485 Subsistence use of timber and plant material.

* * * * *

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

* * * * *

■ 12. In § 13.490, revise paragraph (a) to read as follows:

§ 13.490 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term

“temporarily” shall mean only so long as reasonably necessary to achieve the purposes of the closure.

* * * * *

§ 13.1902 [Amended]

■ 14. In § 13.1902, remove paragraph (d).

Jessica Bowron,

Comptroller, Exercising the Delegated Authority of the Director.

[FR Doc. 2026–04606 Filed 3–6–26; 11:15 am]

BILLING CODE 4312–52–P

DEPARTMENT OF ENERGY

48 CFR Part 970

[DOE–HQ–2026–0199]

Notification of Petition for Rulemaking; America First Legal Foundation

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

ACTION: Notification of petition for rulemaking; request for comments.

SUMMARY: This document announces receipt of a petition for rulemaking received by the Department of Energy (DOE) on January 7, 2026, from the America First Legal Foundation (AFL) requesting that DOE update its regulations concerning procedures requiring that management and operating contractors (M&Os) who enter into agreements with DOE submit and implement a written Diversity, Equity, Inclusion, and Accessibility (DEIA) Plan. This document summarizes the substantive aspects of this petition and requests public comments on the merits of the petition.

DATES: DOE will accept comments, data, and information with respect to the America First Legal Foundation Petition until April 9, 2026.

ADDRESSES: You may submit comments, identified by docket number “DOE–HQ–2026–0199,” by the following method:

Federal eRulemaking Portal:
www.regulations.gov. Follow the instructions for submitting comments. For detailed instructions on submitting comments and additional information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. The docket web page can be found at: www.regulations.gov/docket/DOE-HQ-2026-0199. The docket web page will

contain simple instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Butler, U.S. Department of Energy, Office of Management, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 805–8181. Email: MA60Rulemaking@hq.doe.gov. Ms. Jody TallBear, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–4798. Email: Jody.TallBear@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, provides, among other things, that “[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.” (5 U.S.C. 553(e)) DOE received a petition for rulemaking from the America First Legal Foundation requesting that DOE update its regulations at DOE Federal Acquisition Regulation (referred to as “DEAR”) by rescinding DEAR clause provision 48 CFR 970.5226–1 titled “Diversity Plan.” The subject provision was last updated in December 2024. 89 FR 89799 (November 13, 2024).

In their petition, the petitioners assert that the “Diversity Plan: provision is problematic for several reasons including that it is drafted in vague, subjective terms that invite arbitrary application as contractors endeavor to create and implement Diversity Plans. Secondly, petitioners assert that this vagueness is particularly problematic related to promoting race and identity-conscious initiatives that may conflict with federal civil rights laws. Additionally, petitioners assert that the provision is at odds with current Administration policy as outlined in Executive Order (E.O.) 14151, “Ending Radical and Wasteful Government DEI Programs and Preferencing.”

DOE notes that it has taken action to implement E.O. 14151 as it relates to contracting to include modifying contract terms and conditions to strengthen civil rights compliance language and related specifically to the “Diversity Plan” provision. First, on January 23, 2025, DOE issued Policy Flash 2025–16 entitled, “Rescission of DEI, CBP, and Justice40 Policy Flashes, Acquisition Letters, and Financial Assistance Letters.” This Policy Flash rescinded former DOE guidance on DEI, CBP, and Justice40 requirements. DOE later issued a class deviation from DEAR 970.5226–1 on February 3, 2025. The deviation eliminated the requirement to include the DEIA Plan clause at

970.5226–1, directed contracting officers to immediately notify affected contractors that DOE will no longer enforce the clause, and instructed contracting officers to modify affected solicitations and contracts to remove the clause as soon as practicable. The AFL petition acknowledges that DOE issued the deviation but asserts that DOE could “reactivate” the regulation at any time so it should be rescinded.

The petition is described in this document and set forth verbatim below. The petition and class deviation are also available in the docket at www.regulations.gov/docket/DOE-HQ-2026-0199. Through this notification, DOE is seeking views on whether it should grant the petition and undertake a rulemaking to rescind the “Diversity Plan” provision. By seeking comment on whether to grant this petition, DOE takes no position at this time regarding the merits of the suggested rulemaking or the assertions made by the petitioners.

DOE welcomes comments and views of interested parties on any aspect of the petition for rulemaking and on whether DOE should proceed with the rulemaking.

Submission of Comments

DOE invites all interested parties to submit in writing by the date under the **DATES** heading, comments and information regarding this petition via www.regulations.gov. All submissions must include the agency name, “Department of Energy,” and docket number, DOE–HQ–2026–0199, for this rulemaking. All comments received will be posted without change to www.regulations.gov, including any personal information provided. Do not include personal information you would not want publicly shared, including social security information, home addresses, or any other personal identifying information not to be publicly shared. DOE will not take responsibility for sharing information shared by you. Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted.

DOE considers public participation to be a very important part of its process for considering rulemaking petitions. DOE actively encourages the participation and interaction of the

public during the comment period. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in determining how to proceed with a petition.

Signing Authority

This document of the Department of Energy was signed on March 6, 2026, by Jonathan Brightbill, 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 March 6, 2026.

Jennifer Hartzell,

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

Petition of America First Legal Foundation for Rulemaking

Petition To Rescind Rule Requiring Department of Energy Contractors To Develop a Diversity Plan

Petition for Rulemaking

Summary of Petition

1. This petition for rulemaking is submitted pursuant to 5 U.S.C. 553(e) and 42 U.S.C. 7191, which grant any interested person the right to petition the Department of Energy for the issuance, amendment, or repeal of a rule. America First Legal Foundation (“AFL”) respectfully requests that the Department of Energy (“DOE”) rescind 48 CFR 970.5226–1—which requires management and operating contractors who enter into engagements with the DOE to prepare, submit, and annually update a written diversity, equity, inclusion, and accessibility plan. The diversity plan requirement pressures contractors to sort and evaluate employees and applicants by race and sex, encouraging quotas and preferences that contravene federal civil rights guarantees and the Constitution’s promise of equal protection. Prompt rescission of this rule is essential to restoring fair, merit-based federal contracting untethered from compelled “diversity” metrics.

Statement of Interest

2. AFL is a national, 501(c)(3) nonprofit organization working to promote the rule of law, prevent executive overreach, protect our citizens’ civil rights, and promote public understanding of the Constitution and the laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution, laws, and citizens of the United States.

Jurisdiction & Authority

3. Congress created the Department of Energy with the passage of the Department of Energy Organization Act¹ and authorized it to manage and operate nuclear and other energy facilities through contracts with private entities.² Acting under this general contracting authority, the Department adopted acquisition regulations in 48 CFR part 970 to govern its management-and-operating contracts.³ One such provision, 48 CFR 970.5226–1, requires covered contractors to submit and implement a written Diversity (or DEIA) Plan.⁴ The clause requires contractors to prepare, submit, and annually update a written diversity, equity, inclusion, and accessibility plan for approval by the contracting officer.⁵ The plan must describe how they will promote workforce and supplier diversity, set specific goals, and periodically report on their progress.⁶ DOE inserts this clause into its M&O contracts to operationalize its diversity policies within the contractor workforce and subcontracting base.⁷

Background

4. 48 CFR 970.5226–1 originated in 2000, when the DOE undertook a comprehensive rewrite of its management and operating contract regulations and added a Diversity Policy and Diversity Contract Clause to its regulations governing management and

operating contracts.⁸ Under that original framework from 2000, the clause was presented as a tool for encouraging contractors to “foster and enhance partnerships with small, small disadvantaged, women-owned small businesses, and educational institutions.”⁹ Contractors were not required to pursue racial diversity or to prepare any sort of diversity plan.¹⁰

5. But several decades later, in 2023, the DOE proposed 48 CFR 970.5226–1, which rebranded the “Diversity Contract Clause” as a “Diversity Plan.”¹¹ The amendment requires contractors to submit a “Diversity, Equity, Inclusion, and Accessibility (DEIA) Plan” to the contracting officer. The amendments were finalized in November 2024.¹² The **Federal Register** notice explained that this change was intended “to incorporate the more current terminology of ‘Diversity, Equity, Inclusion, and Accessibility’ (DEIA)” and to “better align the DOE clause with current Administration initiatives” and “the broader scope of recent DEIA initiatives.”¹³

6. The addition of the “Diversity Plan” was closely tied to the Biden Administration’s agenda of promoting diversity, equity, and inclusion.¹⁴ For example, in the first few days of the Biden administration, President Biden ordered the federal workforce to apply DEI principles in its hiring.¹⁵ DOE’s Diversity Plan clause became one vehicle for operationalizing that mandate in the management and operating contracting space, by requiring contractors to internalize DEIA priorities in areas that extend well beyond traditional equal-employment-opportunity compliance. In practice, the clause invites contractors to treat DEIA as a freestanding policy objective, rather than as a constraint defined and limited by existing civil-rights statutes.

⁸ 48 CFR 970.2671 (2000).

⁹ *Id.*

¹⁰ *Id.*

¹¹ 48 CFR 970.5226–1 (2024).

¹² *Id.*

¹³ 48 CFR Chapter 9 (Department of Energy Acquisition Regulation (DEAR)).

¹⁴ See e.g., Exec. Order No. 14,035, 86 FR 34,593 (Jun. 25, 2021) (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce); Exec. Order No. 13,985, 86 FR 7,009 (Jan. 25, 2021) (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government); Exec. Order No. 14,091, 88 FR 10,825 (Feb. 16, 2023) (Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government).

¹⁵ See Exec. Order No. 14,035, 86 FR 34,593 (Jun. 25, 2021) (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce).

¹ 42 U.S.C. 7101 *et seq.*

² 42 U.S.C. 7256(a) (authorizing the Secretary “to enter into and perform such contracts . . . as he may deem to be necessary or appropriate to carry out functions . . . vested in the Secretary”).

³ 48 CFR 970; see also 42 U.S.C. 7191 (outlining the DOE’s general rulemaking authority).

⁴ 48 CFR 970.5226–1 (2024).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

The Diversity Plan Conflicts With Current Executive Policy

7. The Diversity Plan clause at 48 CFR 970.5226–1 is fundamentally at odds with the current Trump Administration’s stated policy goals.

8. On January 20, 2025, President Trump responded to the widespread support for eliminating the government’s race- and sex-conscious policies by signing Executive Order 14,151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*.¹⁶ The Executive Order “coordinate[s] the termination of all discriminatory programs, including illegal DEI and ‘diversity, equity, inclusion, and accessibility’ (DEIA) mandates, policies, programs, preferences, and activities in the Federal Government.”¹⁷

9. The DOE has recognized that this Executive Order poses problems for 48 CFR 970.5226–1 and has issued a class deviation for the Diversity Plan requirement.¹⁸ The deviation instructs contracting officers to notify contractors that the DOE “will no longer enforce” the clause, that they “should not submit” DEIA plans or updates, and that they should remove Diversity Plan clauses from existing contracts “as soon as practicable,” pending formal amendment of the DEAR.¹⁹ But that formal amendment has not yet been made.

10. According to both the APA and the Supreme Court’s interpretation of the APA, the DOE may rescind or revise a prior rule when it concludes the rule is unlawful, no longer justified, or inconsistent with current policy, so long as it provides a reasoned explanation and complies with the APA’s procedural requirements.²⁰ Given this landscape, rescission is the logical next step. Maintaining this clause in the Code of Federal Regulations, even while the DOE has formally suspended its use, prolongs uncertainty for contracting officers and contractors and creates an invitation for future administrators to revive the unlawful requirements.

¹⁶ Exec. Order No. 14,151, 90 FR 8,339 (Jan. 29, 2025) (*Ending Radical and Wasteful Government DEI Programs and Preferencing*).

¹⁷ *Id.*

¹⁸ Class Deviation Findings And Determination Department Of Energy Acquisition Regulation (DEAR) 970.5226–1, DOE (Feb. 3, 2025), <https://perma.cc/M2MJ-U6D2>.

¹⁹ *Id.*

²⁰ See 5 U.S.C. 553(b)–(c), 706(2)(A); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 514–16 (2009); *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 29–34 (2020).

The Diversity Plan Imposes Additional Regulatory Burdens With No Legitimate Purpose

11. Requiring contractors to develop, update, and negotiate a stand-alone DEIA Plan diverts management time and resources from the technical, safety, and mission-critical work those contracts are supposed to advance. When the DOE revised § 970.5226–1 in 2024, it did not identify any concrete evidence that the Diversity Plan requirement had improved contract performance or addressed documented deficiencies in contractor practices. Instead, the DOE’s stated rationale was largely to “incorporate” updated DEIA terminology and align the clause with contemporary policy priorities.²¹

12. Because it does not serve a legitimate purpose, the DEIA Plan requirement functions less as a neutral compliance mechanism and more as a preferential channel for contractors willing to endorse a woke ideological framework. The clause does not turn on legal noncompliance, performance failures, or identifiable risks; instead, it directs contractors to describe “innovative strategies” to advance “diversity, equity, inclusion, and accessibility” across broad categories of activity.²² Contractors that adopt expansive DEIA rhetoric can readily represent themselves as meeting the clause’s expectations, while those that simply adhere to existing, content-neutral civil-rights and procurement requirements may be perceived as deficient. This inherently subjective standard invites contracting officials to inject their own political or ideological preferences into what should be an objective, performance-based process.

The Diversity Plan Requirement Exposes Contractors to Legal Risk

13. The text of § 970.5226–1 is drafted in vague, subjective terms that invite arbitrary application. Contractors are left to guess at the DOE’s expectations, and contracting officers are given broad discretion to approve or disapprove plans based on their own policy preferences rather than on clear, objective standards.

14. The clause requires contractors to submit a DEIA Plan that “include[s] innovative strategies for increasing opportunities to fully use the talents and capabilities of a diverse work force” and that describes the contractor’s approach to “promoting diversity” in a wide range of areas, including workforce practices, educational

outreach, community involvement, subcontracting, economic development, and the prevention of profiling and discrimination.²³ Yet the regulation nowhere explains what counts as a “diverse work force,” what it means to “promot[e] diversity” in these contexts, or what qualifies as an acceptable “innovative strategy.”

15. This vagueness is particularly problematic because the subject matter of the clause lies close to areas regulated by federal civil-rights statutes.²⁴ By instructing contractors to devise “innovative strategies” to promote “diversity” in hiring, subcontracting, and economic-development activities, the clause creates pressure to adopt race- and identity-conscious initiatives that may exceed, or even conflict with, the contractors’ obligations under federal law.²⁵ Contractors who understand the clause as a signal to prioritize particular demographic characteristics in employment or subcontracting may find themselves navigating an untenable tension between perceived expectations of the DEIA Plan and their duty to adhere to statutes that require equal treatment without regard to protected characteristics.

Requested Action

16. To promote equality of opportunity and meritocracy, the Department of Energy should initiate the process to rescind 48 CFR 970.5226–1’s requirement for contractors to create a Diversity Plan.

Conclusion

17. The DOE must rescind 48 CFR 970.5226–1 to comply with current law and the President’s agenda. The Diversity Plan requirement uses the procurement process to pressure contractors to adopt contested DEIA priorities, rather than simply ensuring that they can perform the work safely, effectively, and in compliance with neutral civil-rights and procurement laws. By layering vague, subjective DEIA criteria onto the contracting process, the clause injects uncertainty and politics into award and oversight decisions, distracting contractors from their core technical, safety, and mission-critical responsibilities. For these reasons, AFL respectfully requests that

²³ *Id.*

²⁴ See, e.g., Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–2 (1964) (prohibiting employment discrimination); Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (1964) (prohibiting discrimination under federally funded programs); 42 U.S.C. 1981 (1866) (guaranteeing equal rights to make and enforce contracts).

²⁵ See *id.*

²¹ See 48 CFR Chapter 9 (Department of Energy Acquisition Regulation (DEAR)), *supra* n. 7.

²² 48 CFR 970.5226–1 (2024).

the DOE initiate the process of removing the Diversity Plan for contractors from its rules, regulations, and guidance materials, and return to a neutral, statutorily grounded approach that serves all Americans equally.

18. Please confirm receipt of this petition and advise on the timeline and process for the DOE's consideration. We stand ready to provide additional information or participate in any public comment process that may follow.

Respectfully submitted,
/s/Alice Kass
America First Legal Foundation; 611
Pennsylvania Ave. SE #231, Washington, DC
20003.

[FR Doc. 2026-04687 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

Notices

Federal Register

Vol. 91, No. 46

Tuesday, March 10, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Utah Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Utah Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold public meetings via Zoom at 3:00 p.m. MT on Monday, March 30, and Monday, April 27, 2026. The purpose of these meetings is to finalize the Committee's report on the topic, *The Civil Rights of Students with Disabilities in Utah*.

DATES:

Monday, March 30, 2026, from 3:00 p.m.–4:00 p.m. Mountain Time,
Monday, April 27, 2026, from 3:00 p.m.–4:00 p.m. Mountain Time

ADDRESSES: These meetings will be held via Zoom Webinar.

Monday, March 30th: Registration Link (Audio/Visual): <https://www.zoomgov.com/j/1611640285> Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 164 0285.

Monday, April 27th: Registration Link (Audio/Visual): <https://www.zoomgov.com/j/1618638622> Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 863 8622.

Agenda: (note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer, at bpeery@usccr.gov or (202) 701–1376.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the

public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any charges incurred. Callers will incur no charge for calls when they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, at atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Brooke Peery at bpeery@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 701–1376.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via the file sharing website: <https://usccr.app.box.com/folder/251365093949?s=pcbmlqas1jmoeyvibx7fqfxlj0i7w2il> as well as at: www.facadatabase.gov under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, www.usccr.gov, or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: March 5, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–04615 Filed 3–9–26; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–38–2025]

Foreign-Trade Zone (FTZ) 17; Authorization of Production Activity; Garmin International, Inc.; (Avionics and Auto Products; Marine and Personal GPS Products); Olathe, Kansas

On July 21, 2025, Garmin International, Inc. submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 17G, in Olathe, Kansas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 35658, July 29, 2025). On March 5, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026–04672 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2025]

Foreign-Trade Zone (FTZ) 116; Authorization of Production Activity; The Premcor Refining Group, Inc.; (Sustainable Aviation Fuel); Port Arthur, Texas

On June 26, 2025, Valero Energy Corporation submitted a notification of proposed production activity to the FTZ Board on behalf of its affiliate The Premcor Refining Group, Inc. and its facilities within Subzone 116C, in Port Arthur, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 28722, July 1, 2025). On March 5, 2026, the applicant

was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-04671 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-30-2025]

Foreign-Trade Zone (FTZ) 40; Authorization of Production Activity; Air Venturi, Ltd.; (Air Guns and Pressure Tanks); Solon, Ohio

On June 11, 2025, the Cleveland Cuyahoga County Port Authority, grantee of FTZ 40, submitted a notification of proposed production activity to the FTZ Board on behalf of Air Venturi, Ltd., within Subzone 40N, in Solon, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 25993, June 18, 2025). On March 5, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-04670 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-40-2025]

Foreign-Trade Zone (FTZ) 186; Authorization of Production Activity; Mölnlycke Health Care; (Medical Dressings and Foam); Brunswick, Portland, and Wiscasset, Maine

On August 15, 2025, Mölnlycke Health Care submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 186C, in Brunswick, Portland, and Wiscasset, Maine.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 42183, August 29, 2025). On March 5, 2026, the applicant was notified of the FTZ Board's decision. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and subject to a two-year limited authorization period.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-04673 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-23-2025]

Foreign-Trade Zone (FTZ) 196; Authorization of Production Activity; RECARO Aircraft Seating Americas, LLC; (Aircraft Seats); Fort Worth, Texas

On April 7, 2025, RECARO Aircraft Seating Americas, LLC submitted a notification of proposed production activity to the FTZ Board for its facilities within FTZ 196, in Fort Worth, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 15434, April 11, 2025). On March 5, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-04674 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-26-2025]

Foreign-Trade Zone (FTZ) 38; Authorization of Production Activity; ZF Transmissions Gray Court LLC; (Electric and Automatic Vehicle Transmissions); Gray Court and Fountain Inn, South Carolina

On April 15, 2025, ZF Transmissions Gray Court LLC submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 38K, in Gray Court and Fountain Inn, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 16665, April 21, 2025). On March 5, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: March 5, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-04675 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-088]

Certain Steel Racks and Parts Thereof From the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2023-2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the companies under review either sold certain steel racks and parts thereof (steel racks) from the People's Republic of China (China) in the United States at prices below normal value (NV) during the period of review (POR) September 1, 2023, through August 31, 2024, or do not qualify for a separate rate. Further, Commerce is rescinding this review with respect to four companies and preliminarily rescinding this review with respect to one company. Commerce invites interested parties to comment on the preliminary results of this review.

DATES: Applicable March 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Luke Caruso, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2081.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on steel racks from China.¹ After receiving review requests, on October 17, 2024, Commerce initiated this review with respect to twelve companies.²

On December 9, 2024, Commerce tolled certain deadlines in this administrative review by 90 days.³ On August 26, 2025, Commerce extended the deadline for issuing the preliminary results of this review by 113 days until December 22, 2025.⁴ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁵ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ As a result, the deadline for issuing the preliminary results of this review is March 2, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary

Decision Memorandum.⁷ A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix I. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the *Order* is steel racks from China. A full description of the scope of the *Order* is in the Preliminary Decision Memorandum.

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties who requested a review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review in the **Federal Register**. All parties that requested a review of Xiamen Luckyroc Industry Co., Ltd. (Xiamen Luckyroc); and Nanjing Dongsheng Shelf Manufacturing Co., Ltd. (Dongsheng) timely withdrew their review requests.⁸ Therefore, consistent with 19 CFR 351.213(d)(1), Commerce is rescinding this review with respect to Xiamen Luckyroc and Dongsheng.

Further, pursuant to 19 CFR 351.213(d)(3), Commerce may rescind an administrative review with respect to a particular exporter or producer, if it concludes that, during the period covered by the review, there were no suspended entries, exports, or sales of subject merchandise, as the case may be. Hebei Minmetals Co., Ltd. (Hebei) and Ningbo Xinguang Rack Co., Ltd. (Ningbo Xinguang Rack) reported no shipments of subject merchandise during the POR and Commerce found no evidence of suspended POR entries of their subject merchandise. Commerce notified all interested parties of its intent to rescind the instant review with respect to Hebei and Ningbo Xinguang Rack because there were no reviewable, suspended

entries of subject merchandise from these companies during the POR.⁹ Commerce invited interested parties to comment on Commerce's intention to rescind the review with respect to these companies.¹⁰ No parties commented on this matter. Therefore, consistent with 19 CFR 351.213(d)(3), Commerce is rescinding this review with respect to Hebei and Ningbo Xinguang Rack. The companies rescinded from this review with these preliminary results are listed in Appendix II.

Preliminary Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to generally rescind an administrative review of an antidumping duty order with respect to a company for which Commerce concludes there were no suspended entries of subject merchandise during the POR.¹¹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.¹² Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.¹³

Although Nanjing Kingmore Logistics Equipment Manufacturing Co., Ltd. (Nanjing Kingmore) claimed that it

⁹ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated February 4, 2026; see also Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated October 28, 2024 (CBP Data Release).

¹⁰ *Id.*

¹¹ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

¹² See 19 CFR 351.212(b)(1).

¹³ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that "[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended"; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that "for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate").

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 71254 (September 3, 2024); see also *Certain Steel Racks and Parts Thereof from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Countervailing Duty Order*, 84 FR 48584 (September 16, 2019) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 83644 (October 17, 2024) (*Initiation Notice*).

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁴ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated August 26, 2025.

⁵ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁶ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁷ See Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Steel Racks and Parts Thereof from the People's Republic of China; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ See Xiamen Luckyroc's Letter, "Withdraw of Request for Administrative Review," dated December 10, 2024; see also United Material Handling, Inc.'s Letter, "Withdrawal of Request for Administrative Review," dated January 6, 2025.

exported subject merchandise during the POR,¹⁴ there is no record evidence of a suspended POR entry of subject merchandise from Nanjing Kingmore.¹⁵ In the absence of any suspended entries of subject merchandise from Nanjing Kingmore, we are preliminarily rescinding this administrative review with respect to Nanjing Kingmore in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Commerce calculated constructed export price in accordance with section 772 of the Act. Further, because China is a non-market economy (NME) country within the meaning of section 771(18) of the Act, Commerce calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying the preliminary results of review, see the Preliminary Decision Memorandum.

Separate Rates

In all proceedings involving an NME country, Commerce maintains a rebuttable presumption that all companies are subject to government control and, thus, should be assessed a single weighted-average dumping margin with the exception of companies that can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to their exports (*i.e.*, can affirmatively demonstrate that they are eligible for a separate rate).¹⁶ Commerce has preliminarily determined that information on the record by Jiangsu JISE Intelligent Storage Equipment Co.,

Ltd. (Jiangsu JISE) and the mandatory respondent, which is a single entity comprising Jiangsu Nova Intelligent Logistics Equipment Co., Ltd., Nanjing Jinshidai Storage Equipment Co., Ltd., and Hebei Nova Intelligent Logistics Equipment Co., Ltd. (collectively Nova),¹⁷ demonstrates that these companies are eligible for a separate rate.¹⁸

However, Nanjing Uργο Logistics Equipment Co (Uργο) has not demonstrated its eligibility for a separate rate because it did not file a separate rate application or separate rate certification. Therefore, Commerce has preliminarily determined that Uργο is ineligible for a separate rate and is, thus, part of the China-wide entity and subject to the China-wide entity rate (*i.e.*, 144.50 percent).

The China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.¹⁹ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity,²⁰ the entity is not under review, and the entity's rate (*i.e.*, 144.50 percent)²¹ is not subject to change.

Separate Rate for Non-Individually Examined Companies

The statute and Commerce's regulations do not address what estimated weighted-average dumping margin to apply to respondents 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 an investigation, for guidance regarding establishing an estimated weighted-average dumping margin for respondents that are not individually examined in an administrative review.

Section 735(c)(5)(A) of the Act provides that Commerce will base the all-others rate in an investigation on the weighted average of the estimated weighted-average dumping margins calculated for the individually examined respondents, excluding dumping margins that are zero, *de minimis*, or based entirely on facts available. Where the weighted-average dumping margins for each of the individually examined respondents is zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use "any reasonable method" to establish the estimated all-others rate.

The sole mandatory respondent's (Nova) preliminary estimated weighted-average dumping margin is not zero, *de minimis*, or based entirely on facts available. Therefore, we have preliminarily assigned Jiangsu JISE, the only non-individually examined company eligible for a separate rate, the estimated weighted-average dumping margin calculated for Nova, consistent with section 735(c)(5)(B) of the Act.

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period September 1, 2023, through August 31, 2024:

Exporter	Weighted-average dumping margin (percent)
Jiangsu Nova Intelligent Logistics Equipment Co., Ltd./Nanjing Jinshidai Storage Equipment Co., Ltd./Hebei Nova Intelligent Logistics Equipment Co., Ltd	73.60

¹⁴ See Nanjing Kingmore Logistics Equipment Manufacturing Co., Ltd.'s (Kingmore) Letters, "Separate Rate Certification," dated November 18, 2024, and "Nanjing Kingmore's Separate Rate Certification Supplemental Questionnaire Response" dated February 13, 2026.

¹⁵ See Memoranda, "Release of U.S. Customs and Border Protection Entry Data," dated October 28, 2024, and "Re-Release of U.S. Customs and Border Protection Entry Data," dated December 6, 2024.

¹⁶ See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); see also Final Determination of Sales at Less Than Fair Value and

Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

¹⁷ See Certain Steel Racks and Parts Thereof from the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2022–2023, 89 FR 82213 (October 10, 2024), unchanged in Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2022–2023, 90 FR 30629 (July 10, 2025).

¹⁸ See Preliminary Decision Memorandum.

¹⁹ See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent

Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013).

²⁰ The China-wide entity includes Guangdong Xinmiao Storage Equipment Co., Ltd., Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd., Jiangsu Starshine Industry Equipment Co., Ltd., and Nanjing Peter Logistics Equipment Co., Ltd. The record shows no suspended POR entries for these companies which did not have a separate rate during the POR; thus, they remain part of the China-wide entity.

²¹ See Order, 84 FR at 48585.

Exporter	Weighted-average dumping margin (percent)
Review-Specific Rate Applicable to the Following Non-Examined Company	
Jiangsu JISE Intelligent Storage Equipment Co., Ltd	73.60

Disclosure

Commerce intends to disclose the calculations that it performed in these preliminary results of review to parties to the proceeding within five days of any public announcement of these preliminary results or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 21 days after the date of publication of this notice.²² Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.²³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue addressed; and (2) a table of authorities.²⁴

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.²⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that we will issue for the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written hearing

request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues the party intends to discuss at the hearing. Issues raised in the hearing by a party will be limited to those raised in the party's case and rebuttal briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice in the **Federal Register**.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act, the assessment of antidumping duties on entries of merchandise covered by the review shall be based on the final results of this review. Therefore, upon issuance of the final results of review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.²⁷

For the companies listed in Appendix II, for which Commerce is rescinding this review, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these preliminary results of 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).

Commerce will calculate importer or customer-specific assessment rates for the individually examined respondent, in accordance with 19 CFR 351.212(b)(1).²⁸ Specifically, Commerce

will calculate importer or customer-specific *ad valorem* assessment rates by dividing the total amount of dumping calculated in the final results of this review for all reviewed U.S. sales to the importer/customer by the total entered value of the merchandise sold to the importer/customer.²⁹ Where either the respondent's *ad valorem* estimated weighted-average dumping margin is zero or *de minimis*, or an importer or customer-specific *ad valorem* assessment rate is zero or *de minimis*,³⁰ Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Pursuant to a refinement to Commerce's assessment practice, where sales of subject merchandise exported by an individually examined respondent were not reported in the U.S. sales data submitted by the respondent, but the merchandise was entered into the United States during the POR, Commerce will instruct CBP to liquidate any entries of such merchandise at the antidumping duty assessment rate for the China-wide entity.³¹

Commerce will instruct CBP to liquidate entries of subject merchandise exported by companies that are not eligible for a separate rate and which are therefore considered to be part of the China-wide entity, at the weighted-average dumping margin for the China-wide entity, *i.e.*, 144.50 percent.³²

Commerce will instruct CBP to liquidate entries of subject merchandise exported by the companies for which it rescinded the review at the cash deposit rate required at the time of entry.

Cash Deposit Requirements

The following cash deposit requirements will be in effect for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on, or after, the date of publication of the notice of the final results of this administrative review in

Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

²⁹ See 19 CFR 351.212(b)(1).

³⁰ See 19 CFR 351.106(c)(2).

³¹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

³² See *Order*, 84 FR at 48586.

²² See 19 CFR 351.309(c)(1)(ii).

²³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

²⁴ See 19 CFR 351.309(c)(2) and (d)(2).

²⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²⁶ See *APO and Service Final Rule*.

²⁷ See 19 CFR 351.212(b)(1).

²⁸ We applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping*

the **Federal Register**, as provided for by section 751(a)(2)(C) of the Act: (1) for an exporter granted a separate rate in the final results of this review, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review for the exporter (except, if the rate is *de minimis*, then a cash deposit rate of zero will be required); (2) for a previously investigated or reviewed exporter of subject merchandise not under review that has a separate rate, the cash deposit rate will continue to be the exporter's existing cash deposit rate; (3) for all China exporters of subject merchandise that do not have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin assigned to the China-wide entity, which is 144.50 percent; and (4) for a non-China exporter of subject merchandise that does not have a separate rate, the cash deposit rate will be equal to the estimated weighted-average dumping margin applicable to the China exporter(s) that supplied that non-China exporter.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in case and rebuttal briefs, within 120 days of publication of these preliminary results of review in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing 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 and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: March 2, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Adjustment Under Section 777(A)(f) of the Act
- VI. Adjustment for Countervailable Export Subsidies
- VII. Currency Conversion
- VIII. Recommendation

Appendix II

Companies Rescinded From Review

1. Xiamen Luckyroc Industry Co., Ltd.
2. Nanjing Dongsheng Shelf Manufacturing Co., Ltd.
3. Hebei Minmetals Co., Ltd.
4. Ningbo Xinguang Rack Co., Ltd.

[FR Doc. 2026-04676 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-847]

Heavy Walled Rectangular Pipes and Tubes From Mexico: Preliminary Results and Rescission, in Part, of the Antidumping Duty Administrative Review; 2023-2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that heavy walled rectangular pipes and tubes (HWR) from Mexico was sold in the United States at below normal value (NV) during the period of review (POR), September 1, 2023, through August 31, 2024. Additionally, we are rescinding this review, in part, with respect to twelve companies which had no suspended entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 10, 2026.

FOR FURTHER INFORMATION CONTACT: Katie Smith, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0557.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2016, Commerce published in the **Federal Register** the antidumping duty (AD) order on HWR from Mexico.¹ On September 3, 2024, Commerce published in the **Federal Register** a notice of opportunity² to request an administrative review of the AD Order on HWR from Mexico. On October 17, 2024, based on timely requests for review, and pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), we initiated an administrative review of the Order.³ On November 22, 2024, Commerce selected two mandatory respondents for individual examination: (1) Forza Steel S.A. de C.V. (Forza) and (2) Productos Laminados de Monterrey S.A. de C.V. (Prolamsa).⁴

On December 10, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.⁵ On August 12, 2025, pursuant to section 751(a)(3)(A) of the Act, Commerce extended the deadline for these preliminary results by 118 days, until December 29, 2025.⁶ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁷ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁸ Accordingly, the deadline for these preliminary results is now March 5, 2026.

On January 13, 2026, Commerce notified interested parties of our intent

¹ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Antidumping Duty Orders*, 81 FR 62865 (September 13, 2016) (Order).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 71254 (September 3, 2024).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 83646 (October 17, 2024) (Initiation Notice).

⁴ See Memorandum, "Respondent Selection," dated November 22, 2024.

⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 12, 2024.

⁶ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated August 12, 2025.

⁷ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁸ See Memorandum, "Tolling of All Case Deadlines," dated November 24, 2025.

to rescind this administrative review with respect to twelve companies that have no reviewable suspended entries.⁹

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.¹⁰ A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order¹¹

The merchandise covered by the scope of the *Order* is HWR from Mexico. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review, in whole or in part, if a company covered by the review had no recorded entries of subject merchandise during the POR.¹² Based on our analysis of U.S. Customs and Border Protection (CBP) information, twelve companies listed in the *Initiation Notice* had no recorded entries of subject merchandise during the POR.¹³ On January 13, 2026, Commerce notified interested parties of our intent to rescind this review with respect to these twelve companies that had no suspended entries during the POR, and we invited interested parties to comment.¹⁴ No interested party commented on the Intent to Rescind Memorandum. As a result, we are

rescinding this review with respect to the twelve companies listed in Appendix II of this notice.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. We calculated export price, constructed export price, and NV in accordance with sections 772 and 773 of the Act, respectively. For a full description of the methodology underlying our preliminary results of review, see the Preliminary Decision Memorandum.

Rates for the Non-Individually Examined Companies

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 at 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 examinations 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}."

Where the dumping margin for individually examined respondents are all zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use "any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

In this review, we preliminarily calculated weighted-average dumping margins for Forza and Prolamsa that are not zero, *de minimis*, or based entirely on facts otherwise available. In accordance with section 735(c)(5)(A) of the Act, we are preliminarily assigning to the companies not individually examined a weighted-average dumping margin of 16.81 percent, which is the weighted average of the estimated dumping margins calculated for the

mandatory respondents.¹⁵ The companies not selected for individual examination are listed in Appendix III.

Preliminary Results of Review

We preliminarily determine the following weighted-average dumping margin for the period September 1, 2023, through August 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Productos Laminados de Monterrey S.A. de C.V.	7.42
Forza Steel S.A. de C.V.	31.23
Review-Specific Rate for Non-Examined Companies ¹⁶	16.81

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results of this administrative review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

Commerce received a timely request from Nucor Tubular Products (the petitioner) to verify the information submitted in this administrative review, pursuant to 19 CFR 351.307(b)(1)(v).¹⁷ As provided in section 782(i) of the Act, Commerce intends to verify the information reported by Prolamsa prior to issuing the final results of this review.

Public Comment

Because Commerce intends to conduct verification of the questionnaire responses of Prolamsa, interested parties will be notified of the deadline for the submission of case briefs at a later date.¹⁸ Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than seven days after the date on which the verification report is issued in this administrative review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case

⁹ See Memorandum, "Notice of Intent to Rescind Review, in Part," dated January 13, 2026 (Intent to Rescind Memorandum).

¹⁰ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹¹ See *Order*, 81 FR at 62865–66.

¹² See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (January 24, 2023).

¹³ See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated October 25, 2024, at Attachment.

¹⁴ See Intent to Rescind Memorandum.

¹⁵ See Memorandum, "Preliminary Results Margin Calculation for Respondents not Selected for Individual Examination," dated concurrently with this notice.

¹⁶ See Appendix III.

¹⁷ See Petitioner's Letter, "Request for Verification," dated January 21, 2025.

¹⁸ See 19 CFR 351.303 (for general filing requirements).

briefs.¹⁹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities. All briefs must be filed electronically using ACCESS.²⁰

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide, at the beginning of their briefs, a public executive summary for each issue raised in their briefs.²¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 30 days after the date of publication of this notice in the **Federal Register**. Hearing requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.²³ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed via ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its

requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁴

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of the final results, in accordance with section 751(a)(2)(A) of the Act, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.²⁵

Where a respondent's weighted-average dumping either is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero percent or *de minimis*, Commerce's practice is to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.²⁶ Thus, if Commerce calculates a weighted-average dumping margin of zero percent for Forza or Prolamsa in the final results of this review, it will instruct CBP to liquidate entries of Forza or Prolamsa's subject merchandise during the POR without regard to antidumping duties.

However, if Forza or Prolamsa's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent) in the final results of this review, we will calculate importer-specific assessment rates for antidumping duties based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).²⁷ Where the respondent did not report entered values, in accordance with 19 CFR 351.212(b)(1), Commerce will calculate importer/customer-specific assessment rates by dividing the amount of dumping for reviewed sales to the importer/customer by the total quantity of those sales.²⁸ Commerce will calculate an estimated *ad valorem* importer/customer-specific assessment rate to determine whether

the per-unit assessment rate is *de minimis*; however, Commerce will use the per-unit assessment rate where entered values were not reported. Where an importer/customer-specific *ad valorem* assessment rate is not zero or *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Forza and Prolamsa for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation (i.e., 4.91 percent),²⁹ if there is no rate for the intermediate company(ies) involved in the transaction.³⁰

For the companies identified in Appendix III, which were not selected for individual review, we will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the weighted-average dumping margin determined in the final results of this review, unless that rate is zero or *de minimis*, in which case we intend to instruct CBP to liquidate relevant entries without regards to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.³¹

For the twelve companies for which the review is rescinded with these preliminary results, we will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP for the rescinded companies no earlier than 41 days after the date of publication of this notice in the **Federal Register**.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.³² Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the

¹⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Final Rule).

²⁰ See 19 CFR 351.303.

²¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²² See APO and Service Final Rule.

²³ See 19 CFR 351.310(d).

²⁴ See APO and Service Final Rule.

²⁵ See 19 CFR 351.212(b)(1).

²⁶ *Id.*, 77 FR at 8102–03; see also 19 CFR 351.106(c)(2).

²⁷ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

²⁸ See 19 CFR 351.212(b)(1).

²⁹ See Order, 81 FR at 62867.

³⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

³¹ See section 751(a)(2)(C) of the Act.

³² *Id.*

publication date of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed in the final results of this review will be equal to the weighted-average dumping margins established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by a company not covered in this review, but covered in a prior segment of the proceeding, the cash deposit rate will be the company-specific rate published for the most recently-completed segment in which it was reviewed; (3) if the exporter is not a firm covered in this review or in the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 4.91 percent, the all-others rate established in the LTFV investigation.³³ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 the 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.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4), 19 CFR 351.213(h)(2), and 19 CFR 351.221(b)(4).

Dated: March 5, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rescission of Review, In Part
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

Appendix II

List of Companies for Which the Administrative Review Has Been Rescinded

1. Aceros del Toro S.A. de C.V.
2. Aceros El Fraile S.A. de C.V.
3. Arco Metal S.A. de C.V.
4. Border Assembly S. de R.L. de C.V.
5. Grupo Collado S.A. de C.V.
6. Industrias Monterrey, S.A. de C.V.
7. P.J. Trailers Company S.A. de C.V.
8. Placa y Fierro de Monterrey S.A. de C.V.
9. PYTCO S.A. de C.V.
10. Ternium S.A. de C.V.
11. Tuberia Nacional S.A. de C.V.
12. Tuberias Procarsa S.A. de C.V.

Appendix III

List of Non-Individually Examined Companies

1. Buffalo Tube S.A. de C.V.
2. Fortacero S.A. de C.V.
3. Maquilacero S.A. de C.V.
4. Perfiles y Herrajes LM S.A. de C.V.
5. Regiomontana de Perfiles y Tubos S.A. de C.V.

[FR Doc. 2026-04696 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: 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 Toyo Kohan Co., Ltd. (Toyo Kohan), the sole producer/exporter subject to this

administrative review, did not make sales of subject merchandise at less than normal value during the period of review (POR) May 1, 2023, through April 30, 2024.

DATES: Applicable March 10, 2026.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatryan, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6412.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2025, Commerce published the *Preliminary Results* and invited comments from interested parties.¹ On August 12, 2025, Toyo Kohan submitted its case brief. On August 18, 2025, Thomas Steel Strip Corporation (the petitioner) submitted its rebuttal brief. Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ Finally, on January 22, 2026, we extended the final results of this review by 35 days, until March 2, 2026.⁴

For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

¹ See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 34416 (July 22, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated November 14, 2025.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Extension of the Deadline for Final Results of 2023–2024 Antidumping Duty Administrative Review," dated January 22, 2026.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2023–2024 Administrative Review of the Antidumping Duty Order on Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³³ See *Order*, 81 FR at 62867.

Scope of the Order⁶

The products subject to the *Order* are diffusion-annealed, nickel-plated flat-rolled steel products from Japan. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made certain changes to the weighted-average dumping margin calculations for Toyo Kohan.⁷

Final Results of Review

For these final results, we determine the following estimated weighted-average dumping margin exists for the period May 1, 2023, through April 30, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Toyo Kohan Co., Ltd	0.00

Disclosure

Commerce intends to disclose the calculations performed for Toyo Kohan in connection with these final results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all

appropriate entries of subject merchandise in accordance with the final results of this review.

Because the weighted-average dumping margin for Toyo Kohan is zero, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by Toyo Kohan for which it did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation (i.e., 45.42 percent),⁸ if there is no rate for the intermediate company(ies) involved in the transaction.⁹

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Toyo Kohan will be equal to the weighted-average dumping margin that is established in the final results of this review (i.e., zero percent); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the producer is, the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters

will continue to be 45.42 percent, the all-others rate established in the LTFV investigation.¹⁰ These deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to 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 this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the *Order*
 - IV. Changes Since the *Preliminary Results*
 - V. Discussion of the Issues
 - Comment 1: Date of Sale
 - Comment 2: Errors in Toyo Kohan's Margin Calculations
 - VI. Recommendation
- [FR Doc. 2026-04611 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

⁶ See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Antidumping Duty Order*, 79 FR 30816 (May 29, 2014) (*Order*).

⁷ For a full description of these changes, see Issues and Decision Memorandum.

⁸ See *Order*, 79 FR at 30816.

⁹ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁰ See *Order*, 79 FR at 30816.

DEPARTMENT OF COMMERCE**International Trade Administration****[C–122–876, C–570–218, C–201–868]****Certain Van-Type Trailers and Subassemblies Thereof From Canada, the People's Republic of China, and Mexico: Postponement of Preliminary Determinations in the Countervailing Duty Investigations****AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.**DATES:** Applicable March 10, 2026.**FOR FURTHER INFORMATION CONTACT:**

Kelsie Hohenberger or Olivia Woolverton (Canada) at (202) 482–2517 or (202) 482–7452, respectively; Christopher Doyle (the People's Republic of China (China)) at (202) 482–5882; and Suresh Maniam (Mexico) at (202) 482–0176, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Background**

On January 20, 2026, the U.S. Department of Commerce (Commerce) initiated countervailing duty (CVD) investigations of imports of van-type trailers and subassemblies thereof (van-type trailers) from Canada, the People's Republic of China (China), and Mexico.¹ Currently, the preliminary determinations are due no later than March 26, 2026.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act

permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On February 26, 2026, the petitioner² timely requested that Commerce postpone the preliminary CVD determinations.³ The petitioner stated a postponement is warranted to provide Commerce with additional time to review and analyze questionnaire responses, and issue supplemental questionnaires prior to making a preliminary CVD determinations.⁴

In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determinations, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determinations in the CVD investigations of van-type trailers from Canada, China, and Mexico to no later than 130 days after the date on which this investigation was initiated, *i.e.*, June 1, 2026.⁵

² The petitioner is American Trailer Manufacturers Coalition, whose members are Great Dane LLC, Stoughton Trailers LLC, and Wabash National Corporation.

³ See Petitioner's Letter, "Request for Postponement of the Preliminary Determination," dated February 26, 2026.

⁴ *Id.*

⁵ Postponing the preliminary determination to 130 days after initiation would place the deadline on Saturday, May 30, 2026. When a deadline falls on a weekend or federal holiday, Commerce's

Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 5, 2026.

Christopher Abbott,*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2026–04678 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–DS–P**DEPARTMENT OF COMMERCE****International Trade Administration****[C–533–896]****Common Alloy Aluminum Sheet From India: Final Results of Countervailing Duty Administrative Review; 2023****AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Manaksia Aluminium Company Limited (MALCO), a producer/exporter of common alloy aluminum sheet from India, received countervailable subsidies during the period of review (POR), January 1, 2023, through December 31, 2023.

DATES: Applicable March 10, 2026.**FOR FURTHER INFORMATION CONTACT:**

Elizabeth Bueley, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3269.

SUPPLEMENTARY INFORMATION:

practice is to move the deadline to the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹ See *Van-Type Trailers and Subassemblies Thereof From Canada, the People's Republic of China, and Mexico: Initiation of Countervailing Duty Investigations*, 91 FR 3124 (January 26, 2026).

Background

On August 11, 2025, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited interested parties to comment.¹ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ Finally, on February 9, 2026, Commerce extended the deadline for issuing the final results by 15 days.⁴ Accordingly, the deadline for these final results is now March 2, 2026.

For a complete description of the events that occurred since the publication of the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by this Order is common alloy aluminum sheet from India. For a complete description

of the scope of this Order, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by the interested parties in their case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is provided in the appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of comments from interested parties, we made no changes to MALCO's countervailable subsidy rate calculations from the *Preliminary Results*.⁶

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ For a full description of the methodology underlying all of Commerce's conclusions, see the Issues and Decision Memorandum.

Final Results of Administrative Review

As a result of this review, Commerce determines the following net countervailable subsidy rate exists for the period January 1, 2023 through December 31, 2023:

Company	Subsidy rate (percent <i>ad valorem</i>)
Manaksia Aluminum Company Limited	3.10

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice

⁶ For a full description of this analysis, see the Issues and Decision Memorandum.

⁷ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for MALCO at the applicable *ad valorem* assessment rate listed. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is 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

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above for MALCO on shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as the final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

¹ See *Common Alloy Aluminum Sheet from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2023*, 90 FR 38623 (August 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Extension of Deadline for Final Results of 2023 Countervailing Duty Administrative Review," dated February 9, 2026.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Common Alloy Aluminum Sheet from India; 2023," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(2).

Dated: March 2, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1: Whether the Advanced Authorization Program (AAP) Is Countervailable
 - Comment 2: Whether the Duty Drawback (DDB) Program Is Countervailable
 - Comment 3: Whether the Export Promotion of Capital Goods Scheme (EPCGS) Is Countervailable
 - Comment 4: Whether the Interest Equalization Scheme (IES) Is Countervailable
 - Comment 5: Whether the Provision of Coal for Less than Adequate Remuneration (LTAR) Program Is Countervailable
 - Comment 6a: Whether the Remission of Duties and Taxes on Export Products (RoDTEP) Program Is Countervailable
 - Comment 6b: Whether Commerce Incorrectly Calculated the Benefit Under the RoDTEP Program
- VII. Recommendation

[FR Doc. 2026-04610 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-331-806]

Frozen Warmwater Shrimp From Ecuador: Preliminary Results and Partial Rescission of Countervailing Duty Expedited Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an expedited review of the countervailing duty (CVD) order on frozen warmwater shrimp (shrimp) from Ecuador for the producers/exporters that requested a review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 10, 2026.

FOR FURTHER INFORMATION CONTACT: Zachary Shaykin or Stephanie Trejo,

AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2638 or (202) 482-4390, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On December 26, 2024, Commerce published in the **Federal Register** the CVD order on shrimp from Ecuador.¹ On March 6, 2025, in accordance with 19 CFR 351.214(l)(3)(i), Commerce initiated an expedited review of the *Order* for six companies that requested a review.² Subsequently, two companies withdrew their requests for a review.³ The period of review is January 1, 2022, through December 31, 2022.

On August 20, 2025, Commerce extended the deadline for these preliminary results by 118 days.⁴ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁵ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ Finally, on February 27, 2026, we extended the preliminary results of this expedited review by two days.⁷

For a complete description of the events that followed the initiation of

this review, see the Preliminary Decision Memorandum.⁸ A list of topics included in the Preliminary Decision Memorandum is included in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The product covered by the *Order* is shrimp from Ecuador. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Partial Rescission of Expedited Review

Pursuant to 19 CFR 351.214(f)(1), Commerce will rescind an expedited review for any company that withdraws its request for an expedited review within 60 days after the date of publication of the notice of initiation. The *Initiation Notice* for this expedited review was published on March 6, 2025.⁹ Natluk and Total Seafood timely filed withdrawals of review requests within the 60-day window from this date (*i.e.*, before May 5, 2025).¹⁰ Therefore, in accordance with 19 CFR 351.214(f)(1), we are rescinding the expedited review of the *Order* with respect to Natluk and Total Seafood. The expedited review will continue with respect to all other firms for which a review was initiated.

Methodology

Commerce is conducting this expedited review in accordance with 19 CFR 351.214(l)(3). For each subsidy program found countervailable, we preliminarily find that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.¹¹ We calculated a CVD rate for each producer/exporter of the subject merchandise that requested an expedited review with the exception

¹ See *Frozen Warmwater Shrimp From Indonesia: Antidumping Duty Order; Frozen Warmwater Shrimp from Ecuador, India, and the Socialist Republic of Vietnam: Countervailing Duty Orders*, 89 FR 104982 (December 26, 2024) (*Order*).

² See *Frozen Warmwater Shrimp from Ecuador: Initiation of Expedited Review of the Countervailing Duty Order*, 90 FR 11398 (March 6, 2025) (*Initiation Notice*).

³ See Natluk S.A. (Natluk)'s Letter, "Natluk S.A. Request for Withdrawal from Expedited Review," dated April 15, 2025 (Natluk's Letter of Withdrawal); see also Exportadora Total Seafood S.A. (Total Seafood)'s Letter, "Exportadora Total Seafood S.A. Request for Withdrawal from Expedited Review," dated April 15, 2025 (Total Seafood's Letter of Withdrawal).

⁴ See Memorandum, "Expedited Review of the Countervailing Duty Order on Frozen Warmwater Shrimp from Ecuador: Extension of Deadline for Preliminary Results," dated August 20, 2025.

⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated November 14, 2025.

⁶ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁷ See Memorandum, "Extension of Deadline for Preliminary Results of Expedited Review of the Countervailing Duty Order of Frozen Warmwater Shrimp from Ecuador," dated February 27, 2026.

⁸ See Memorandum, "Decision Memorandum for the Preliminary Results of the Expedited Review of the Countervailing Duty Order on Frozen Warmwater Shrimp from Ecuador," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁹ See *Initiation Notice*.

¹⁰ See Natluk's Letter of Withdrawal; and Total Seafood's Letter of Withdrawal.

¹¹ See sections 771(5)(B) and (D) of the Tariff Act of 1930, as amended (the Act), regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

of the producers/exporters for which we are rescinding this review. For a full description of the methodology underlying the preliminary results, see the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that the following estimated net countervailable subsidy rates exist for the following producers/exporters for which this expedited review is being conducted:

Producer and/or exporter	Net countervailable subsidy rate (percent <i>ad valorem</i>)
Empacadora del Pacifico S.A. and its cross-owned affiliates ¹² .	13.73.
Nirsa S.A. and Procesadora Posorja S.A. and certain of their cross-owned affiliates ¹³ .	2.18.
Productos Perecibles y Mariscos S.A. and certain of its cross-owned affiliates ¹⁴ .	0.28 (<i>de minimis</i>). ¹⁵

Disclosure

Commerce intends to disclose its calculations and analysis performed for these preliminary results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Commerce will notify interested parties as to the briefing schedule in this expedited review at a later date to be determined. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁶ Interested parties who submit case briefs or rebuttal briefs in this proceeding must

submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁷ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁸ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this expedited review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁹ Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the time and date for the hearing.²⁰ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Cash Deposit Requirements

Pursuant to 19 CFR 351.214(l)(3)(ii), the final results of this expedited review will not be the basis for the assessment of countervailing duties. Upon issuing the final results, Commerce intends to instruct U.S. Customs and Border Protection to collect cash deposits of estimated countervailing duties for the companies subject to this expedited review, at the rates shown above, on

shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this expedited review. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Expedited Review

Unless extended, Commerce intends to issue the final results of this expedited review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days after the date of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.214(i)(1).

Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a)(1), 777(i)(1), and 777A(e) of the Act, and 19 CFR 351.214(l).

Dated: March 3, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Diversification of Ecuador's Economy
- V. Subsidies Valuation
- VI. Benchmarks
- VII. Analysis of Programs
- VIII. Recommendation

[FR Doc. 2026-04612 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 23, 2026, the U.S. Court of International Trade (the Court) issued its final judgment in *Export Packers Company Limited v. United States*, Court No. 24-00061, sustaining the U.S. Department of

¹² We preliminarily determine that the following entities are cross-owned with Empacadora del Pacifico S.A.: Grupacif S.A., Masi S.A., Acuanorte S.A., and Acuicola Mobe Cia Ltda.

¹³ We preliminarily determine that the following entities are cross-owned with Nirsa S.A. and Procesadora Posorja S.A.: Corporacion Real S.A., Camarones y Langostinos del Mar S.A., Terraquil S.A., Luthorcorp S.A., Promusterra S.A., and Penaeus S.A.

¹⁴ We preliminarily determine that the following entity is cross-owned with Productos Perecibles y Mariscos S.A.: Diva S.A.

¹⁵ See *Designations of Developing and Least Developed Countries Under the Countervailing Duty Law*, 85 FR 7613, 7615 (February 10, 2020).

¹⁶ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁹ See *APO and Service Procedures*.

²⁰ See 19 CFR 351.310(d).

Commerce (Commerce)'s remand redetermination pertaining to the final scope ruling of the antidumping duty order on fresh garlic from the People's Republic of China (China). In the underlying scope ruling, Commerce determined that individually quick frozen (IQF) cooked garlic cloves imported by Export Packers Company Limited (Export Packers) were covered by the scope of the order. Commerce is notifying the public that the Court's final judgment is not in harmony with Commerce's final scope ruling, and that Commerce's final scope ruling finds that Export Packers' IQF cooked garlic cloves are outside the scope of the order.

DATES: Applicable March 5, 2026.

FOR FURTHER INFORMATION CONTACT:

Charles DeFilippo or Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3797 or (202) 482-0981, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 2024, Commerce issued its Final Scope Ruling finding that Export Packers' IQF cooked garlic cloves were covered by the scope of the *Order*.¹ Export Packers appealed Commerce's Final Scope Ruling. On April 18, 2025, the Court remanded the Final Scope Ruling to Commerce, holding that: (1) based on its reading of the plain language of the scope of the *Order*, Export Packers' IQF cooked garlic cloves are "clearly prepared by heat processing and physically transformed by that process;" (2) Commerce improperly focused on the Trinity and Amexim scope rulings in its analysis pursuant to 19 CFR 351.225(k)(1), which analyzed blanched garlic, whereas the inquiry merchandise is "cooked" garlic; (3) Commerce's reliance on the Trinity and Amexim scope rulings in its analysis of the inquiry merchandise's physical characteristics under 19 CFR 351.225(k)(2) was "plainly unreasonable"; and (4) Commerce's remaining analysis of the factors listed in 19 CFR 351.225(k)(2) was not supported by substantial evidence.²

¹ See Memorandum, "Final Scope Ruling on Export Packers' Certain Individually Quick Frozen Cooked Garlic Cloves," dated February 21, 2024 (Final Scope Ruling); see also *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*Order*).

² See *Export Packers Company Limited v. United States*, 780 F. Supp. 3d 1342 (CIT 2025) (*Remand Order*).

In its final remand redetermination, issued on December 9, 2025, Commerce found, under protest, the Export Packers' IQF cooked garlic cloves to be outside the scope of the *Order*.³ On February 23, 2026, the Court sustained Commerce's final redetermination.⁴

Timken Notice

In its decision in *Timken*,⁵ as clarified by *Diamond Sawblades*,⁶ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court's February 23, 2026, judgment constitutes a final decision of the Court that is not in harmony with Commerce's Final Scope Ruling. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Scope Ruling

In accordance with the Court's February 23, 2026, final judgment, Commerce is providing notice of its Final Scope Ruling, finding that Export Packers' IQF cooked garlic cloves are outside the scope of the *Order*.

Liquidation of Suspended Entries

Commerce will instruct U.S. Customs and Border Protection (CBP) that, pending any appeals, the cash deposit rate will be zero percent for entries of IQF cooked garlic cloves imported by Export Packers. In the event that the CIT's final judgment is not appealed or is upheld on appeal, Commerce will instruct CBP to lift suspension of liquidation of such entries, and to liquidate entries of IQF cooked garlic cloves imported by Export Packers without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

³ See *Final Results of Redetermination Pursuant to Court Remand, Export Packers Company Limited v. United States*, Court No. 24-00061, Slip Op. 25-45, dated April 18, 2025 (*Final Remand*).

⁴ See *Export Packers Company Limited v. United States*, Slip Op. 26-19 (CIT February 23, 2026).

⁵ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁶ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Dated: March 4, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026-04697 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF593]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting open to the public offering both in-person and virtual options for participation.

SUMMARY: The Gulf Fishery Management Council (Council) will hold a 3-day meeting to consider actions affecting the Gulf of America fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene Tuesday, April 7 through Thursday, April 9, 2026. Daily schedule: Tuesday and Wednesday from 8:30 a.m. to 5 p.m., CDT and Thursday from 8:30 a.m. until 5:30 p.m.

ADDRESSES: The meeting will take place at the Renaissance Battle House Hotel, located 26 N Royal Street, Mobile, AL 36602. If you prefer to "listen in," you may access the log-on information by visiting our website at www.gulfcouncil.org.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Tuesday, April 7, 2026; 8:30 a.m.–5 p.m., CDT

The meeting will begin in CLOSED SESSION of the Full Council to discuss preliminary selection of Coastal Migratory Pelagics and Red Drum Advisory Panel Members and selection of 2025 Law Enforcement Officer/Team of the Year.

Approximately 9:45 a.m. Committee Sessions will begin with *Shrimp* Committee review of SEDAR 87 Gulf Penaeid *Shrimp* Stock Assessments and

Scientific and Statistical Committee (SSC) Recommendations, Texas Closure and remaining items from the Summary of the March 2026 *Shrimp* Advisory Panel Meeting. The committee will receive updates on the working group for *Shrimp* Bycatch Methodology for *Finfish* Species and for the Early Adopter Program.

Following lunch, Migratory Species Committee will receive a Highly Migratory Species (HMS) Presentation on Proposed Rule on Commercial and Recreational *Shark* Management Measures and review of Gulf Council Draft Comment Letter on HMS Proposed Rule. The Data Collection Committee will receive a presentation on Exploring Alternative Methods for Estimating Recreational Landings for Rarely Encountered Species. The Gulf SEDAR Committee will review the Marine Recreational Information Program (MRIP) Update on Fishing Effort Survey (FES) pilot results and SSC Recommendations followed by the SEDAR Steering Committee Assessment Schedule updates and any other SEDAR Steering Committee Meeting Outcomes.

Wednesday, April 8, 2026; 8:30 a.m.–5:30 p.m., CDT

The meeting will begin with a Litigation update followed by the *Reef Fish* Committee receiving presentations on 2025 Gulf State Private Recreational *Red Snapper* and Greater *Amberjack* Landings Updates. The Committee will review Final Action Item—Abbreviated Framework Action: Modification of Gulf Lane *Snapper* Catch Limits, Public Hearing Draft: *Reef Fish* Amendment 63: Modifications to Gulf *Red Grouper* IFQ Program, and Final Action Item—Abbreviated Framework Action: *Red Grouper* IFQ Set Aside Quota Holdback. The Committee will then review Draft Options: Modifications to *Red Snapper* Private Recreational Accountability Measures and receive a presentation for Delegate Federal For-Hire *Red Snapper* Management to Gulf States, remaining February 2026 SSC Items Summary, and discuss the 2026 *Gag Grouper* and Greater *Amberjack* Recreational Fishing Seasons and the 2026 Federal For-hire *Red Snapper* Fishing Season.

Thursday, April 9, 2026; 8:30 a.m.–5:30 p.m., CDT

The Council will reconvene at 8:30 a.m., CDT with a Call to Order, Announcements and Introductions, Adoption of Agenda and Approval of Minutes. The Council will hold public testimony beginning at 8:40 a.m.–12 p.m. for public comment on Final Action Items—Abbreviated Framework Action: Modification of Gulf Lane

Snapper Catch Limits and Abbreviated Framework Action: *Red Grouper* IFQ Set Aside Quota Holdback, any Open Testimony on other Fishery Issues or Concerns.

The Council will receive Committee Reports from the following committees: *Shrimp*, Migratory Species, Data Collection and Gulf SEDAR. The Council will announce the 2025 Law Enforcement Officer/Team of the Year recipient(s); and committee report from the *Reef Fish* Committee.

The Council will receive updates from Supporting Agencies: South Atlantic Council Liaison, Alabama Law Enforcement Efforts, NOAA Office of Law Enforcement (OLE) Report and Presentation, Gulf States Marine Fisheries Commission, U.S. Coast Guard, U.S. Fish and Wildlife Service and Department of State.

Lastly, the Council will receive an update on documents transmitted for Rule Making, hold a discussion on Council Planning and Primary Activities and any Other Business items.

—Meeting Adjourns

The meeting will be a hybrid meeting; both in-person and virtual participation available. You may register for the webinar to listen-in only by visiting www.gulfcouncil.org and click on the Council meeting on the calendar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on the website as they become available.

Although other non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid or accommodations should be directed to Kathy Pereira, (813) 348–1630, at least 15 days prior to the meeting date.

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

Dated: March 6, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–04699 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Request for Nominations, Hydrographic Services Review Panel

AGENCY: Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of solicitation of nominations.

SUMMARY: NOAA is seeking nominations for members to serve on the Hydrographic Services Review Panel (HSRP) Federal Advisory Committee. Nominations are due by April 30, 2026.

DATES: Nominations for members to serve on the HSRP Federal Advisory Committee must be submitted by April 30, 2026, and will be kept on file and used for future HSRP vacancies. NOAA anticipates there will be five vacancies starting on January 1, 2027, each with a four-year term. Current members who may be eligible for a second term in 2027 must reapply.

ADDRESSES: Nominations will be accepted by email and should be sent to: hydroservices.panel@noaa.gov. You will receive a confirmation response. Additional HSRP information, including past HSRP public meeting summary reports, agendas, presentations, transcripts, webinars, and other information is available online at <https://www.nauticalcharts.noaa.gov/hsrp/>.

FOR FURTHER INFORMATION CONTACT:

NOAA HSRP Program Manager, Amanda Phelps, email: hydroservices.panel@noaa.gov or phone: 240–543–0266.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Hydrographic Services Improvement Act, as amended (HSIA; 33 U.S.C. 892 *et seq.*), NOAA maintains an active pool of HSRP candidates and solicits nominations for HSRP candidates once each year. The HSRP advises the NOAA Administrator “on matters related to the responsibilities and authorities set forth in [the HSIA] and such other appropriate matters as the

Administrator refers to the [HSRP] for review and advice” (33 U.S.C. 892c(b)(1)). The NOAA Administrator’s responsibilities and authorities include promoting safe, efficient, and environmentally sound marine transportation under the Coast and Geodetic Survey Act (CGSA; 33 U.S.C. 883 *et seq.*). To promote safe, efficient, and environmentally sound marine transportation under the CGSA, the HSIA states that the NOAA Administrator shall, among other activities:

1. acquire and disseminate hydrographic data and provide hydrographic services; promulgate standards for hydrographic data and services;
2. ensure comprehensive geographic coverage of hydrographic services; maintain a national database of hydrographic data, in cooperation with other appropriate Federal agencies;
3. provide hydrographic services in uniform, easily accessible formats; and
4. participate in the development of, and implement for the United States in cooperation with other appropriate Federal agencies, international standards for hydrographic data and services.

The HSRP has fifteen voting members appointed by the NOAA Administrator in accordance with the HSIA, 33 U.S.C. 892c. Voting members are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to hydrographic data and services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the NOAA Administrator. Two NOAA employees, the Directors of the National Geodetic Survey and the Center for Operational Oceanographic Products and Services, and the Co-Directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center serve as non-voting members. The Director of the NOAA Office of Coast Survey serves as the Designated Federal Officer (DFO) along with one Alternate DFOs. Full-time officers or employees of the United States may not be appointed as voting members. Any voting member of the HSRP who is an applicant for or beneficiary of (as determined by the Administrator) any assistance under the HSIA shall disclose to the HSRP that relationship, and may not vote on any other matter pertaining to that assistance.

Voting members of the HSRP serve a four-year term, except that appointments made to fill an out-of-cycle vacancy are for the remainder of

the unexpired term of the vacancy. Members serve at the Administrator’s discretion and are subject to government ethics standards. Public meetings occur at least twice a year. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under 5 U.S.C. 5376 when engaged in performing duties for the HSRP during the public meeting. Members are reimbursed for actual and reasonable travel expenses incurred in performing such duties according to Federal Travel Regulation.

Upon selection and agreement to serve on the HSRP, members become Special Government Employees (SGEs) of the United States Government. An SGE, as defined in 18 U.S.C. 202(a), is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a full time or intermittent basis. After the selection process is complete, applicants selected to serve on the HSRP must complete the following actions before they can be appointed as an HSRP member:

1. Security Clearance (online Background Security Check process and fingerprinting conducted through NOAA’s Office of Security and Office of Human Capital Services); and
2. Confidential Financial Disclosure Report—SGEs are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find information on the Confidential Financial Disclosure Report at <https://www.oce.gov/Web/oce.nsf/Resources/OGE+Form+450>.

In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. 1001 *et seq.*), NOAA seeks a balanced HSRP membership. Subject matter expertise, with subjects as specified in the HSIA, is the primary criterion considered in the evaluation process. Professional sector representation (academia, industry, research, scientific institution, state and local government, tribal interests, consultant, non-governmental organization, etc.), geographic expertise, experience working productively with committees and working groups, and leadership with navigation, observations, and positioning are other criteria that will be considered. The varied membership of the HSRP ensures expertise reflecting the full breadth of the HSRP’s responsibilities.

II. Application Process

NOAA requests nominations to the HSRP from individuals meeting the criteria in *Background*, above. Nominees are required to submit four items (listed below) via email to the address listed in **ADDRESSES**, above. The emailed nomination package should include all four components, be submitted in Microsoft Word and/or PDF, and be no longer than eight pages. The four required items are as follows:

1. A short biography of 300–400 words.
2. A resume of 3 pages maximum.
3. The nominee’s full work and home contact information including full name, work title, institutional affiliation, work and home mailing addresses, email address(es), phone number(s), and fax number. The nominee will note preferred email, phone number, and mailing address.
4. A cover letter that responds to the *Five Short Response Questions* noted below and serves as a statement of interest to serve on the HSRP. It will also highlight the nominee’s specific area(s) of expertise related to the disciplines and fields described in 33 U.S.C. 892c(c).

Five Short Response Questions for the Cover Letter:

- List your area(s) of expertise from the following list: Hydrographic data and services (e.g., tides, currents, geodetic, and geospatial measurements); marine transportation; port administration; vessel pilotage; coastal and fishery management; and other disciplines in the oceanographic or marine science areas.
- List the geographic region(s) of the country with which you primarily associate your expertise from the following list: Northeast, Mid-Atlantic, Southeast, Gulf of America, Pacific Northwest, California, Hawaii, Pacific Islands, Alaska, Arctic, Great Lakes, Caribbean, National, and/or International.
- Describe your leadership or professional experiences that you believe will contribute to the HSRP.
- Describe your familiarity and experience with NOAA navigation, observations and positioning data, products, and services.
- Describe, generally, the breadth and scope of your knowledge of stakeholders, users, or other groups who interact with NOAA and whose views and input you believe you can share with the HSRP.

Authority: 33 U.S.C. 892 *et seq.*; 33 U.S.C. 883 *et seq.*

Christiaan van Westendorp,

Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2026-04654 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-G1-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF569]

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 Fishery Management Council (MAFMC) will hold a public workshop to collect input on the commercial Scup Gear Restricted Areas (GRAs). This public workshop will be facilitated by the Cornell Cooperative Extension of Suffolk County-Marine Program to incorporate commercial fishing industry involvement in the MAFMC funded project, "Utilizing Collaborative Strategies to Assess and Adapt Scup Gear Restricted Areas (GRAs) in Response to Climate Change."

DATES: The meeting will be held on Tuesday, March 31, 2026, from 9:45 a.m.–3 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: This meeting will be conducted in person at three venues simultaneously with a virtual option available. The meeting locations are: Superior Trawl Inc. (55 State Street, Narragansett, RI 02882, telephone 401-782-1171), Cornell Cooperative Extension (423 Griffing Avenue, Riverhead, NY 11901, telephone 631-727-7850), Lund's Fisheries (997 Ocean Drive, Cape May, NJ 08204, telephone 609-884-7600). Webinar registration details will be posted to the Council's calendar prior to the meeting at <https://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; <https://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 Mid-Atlantic Fishery Management Council in coordination with the Cornell Cooperative Extension of Suffolk County-Marine Program will sponsor this public meeting to collect public input on the current commercial Scup GRAs. Topics discussed at the meeting will include scup management history and stock status; preliminary results of mapping, modeling, and socioeconomic analyses examining scup discards and potential tradeoffs between management scenarios; and industry input on these findings. This public meeting is a deliverable to achieve the project's goal to develop and implement a comprehensive program to investigate potential modifications to the scup GRAs using fisheries and environmental data and industry input. Additional information, background documents, and instructions for providing written comments will be posted to the Council's website at <https://www.mafmc.org>.

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: March 6, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-04700 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF561]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public webinar of its Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Monday, March 23, at 3 p.m. EST. Webinar registration URL information: <https://nefmc-org.zoom.us/j/9t7mKdOcBA>.

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Atlantic Herring Advisory Panel will meet to discuss the Council's priorities for Atlantic herring. They will also discuss a 2026 action to include Atlantic herring specifications for 2027–2031, river herring and shad management measures, and other measures. Other business will be discussed if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: March 6, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-04698 Filed 3-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[RTID 0648–XF591]****Endangered and Threatened Species; Take of Abalone**

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

ACTION: Notice of receipt of research permit application.

SUMMARY: NMFS has received an application for one new scientific research permit. The proposed work is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management, conservation, and recovery efforts. The application may be viewed online at: https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.

DATES: We must receive your written comments at the provided email address (see **ADDRESSES**) on or before April 9, 2026.

ADDRESSES: Written comments on the application should be submitted by email to Susan.Wang@noaa.gov. Please include the permit number (28932) in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Susan Wang, Long Beach, CA (phone: 562–980–4199; email: Susan.Wang@noaa.gov). Permit application instructions are available online at <https://apps.nmfs.noaa.gov>.

SUPPLEMENTARY INFORMATION:

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decision will not be made until after the end of the 30-day comment period. NMFS will publish

notice of its final action in the **Federal Register**.

Authority

Scientific research and enhancement permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–224). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Permit Applications Available for Review and Comment

The application may be viewed online at: https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.

Application No.	Applicant, city, state	Location	Project title	Permit action
28932	Jeremy Long, San Diego State University, San Diego, CA.	CA	Comparative Impacts of Invasive Devilweed and Kelp on the Performance and Preference of Black and Red Abalone.	New.

Dated: March 5, 2026.

Korie Schaeffer

Deputy Regional Administrator, West Coast Region, National Marine Fisheries Service.

[FR Doc. 2026–04598 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE**Office of the Secretary****[Transmittal No. 26–0A]****Arms Sales Notification**

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of

Representatives with attached Transmittal 26–0A.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

December 16, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 26-0A. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 18-10 of April 3, 2018.

Sincerely,

Michael F. Miller
Director

Enclosure:
1. Transmittal

BILLING CODE 6001-FR-C

Transmittal No. 26-0A

**REPORT OF ENHANCEMENT OR
UPGRADE OF SENSITIVITY OF
TECHNOLOGY OR CAPABILITY (SEC.
36(B)(5)(C), AECA)**

(i) *Prospective Purchaser:* Government of Slovakia

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 18-10

Date: April 3, 2018

Implementing Agency: Air Force

Funding Source: National Funds

(iii) *Description:* On April 3, 2018, Congress was notified by congressional certification transmittal number 18-10 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of fourteen (14) F-16 Block 70/72 V configuration aircraft; up to sixteen (16) F-16 F110 General Electric or F100 Pratt & Whitney engines; fifteen (15) M61A1 Vulcan 20mm guns; sixteen (16) APG-83 active electronically scanned array (AESA) radars; fourteen (14) modular mission computers; fourteen (14) LINK-16 multifunctional information distribution system—joint tactical radio system (MIDS-JTRS) secure

communication systems; sixteen (16) LN260 embedded global positioning system inertial navigation systems (EGI); fourteen (14) joint helmet mounted cueing systems; fourteen (14) improved programmable display generators (iPDGs); thirty (30) AIM-120C7 air-to-air missiles; one hundred (100) AIM-9X air-to-air missiles; twelve (12) AIM-9X captive air training missiles, two (2) AIM-120C7; twenty-four (24) AIM-9X additional guidance units; two hundred twenty-four (224) computer control groups and airfoil groups for GBU-12 Paveway II 5001b guided bomb kits; twenty (20) enhanced computer control groups for enhanced Paveway II (GBU-49); one hundred fifty (150) KMU-572F/B guidance kits for joint direct attack munition (JDAM) 5001b Guided Bomb (GBU-38); sixty (60) LAU-129 guided-missile launchers; thirty-six (36) MK-82 or BLU-111 5001b inert fill bomb; four hundred (400) MK-82 or BLU-111 5001b bomb bodies; four hundred (400) FMU-152 joint programmable fuzes; and six (6) AN/AAQ-33 sniper pods. Also included were fourteen (14) joint helmet mounted cueing system II;

fourteen (14) AN/ALQ-213 electronic warfare management systems; sixteen (16) AN/ALQ-211 advanced integrated defensive electronic warfare suites; sixteen (16) AN/ALE-47 countermeasure dispensers; advanced identification friend or foe; secure communications and cryptographic appliques; joint mission planning system; ground training device (flight simulator); electronic combat international security assistance program support; software and support; facilities and construction support; spares and repair/replace parts; personnel training and training equipment; publications and technical documentation; missile containers; DSU-38A/B illuminated target detector (GBU-54); munition support and test equipment; aircraft and munition integration and test support; studies and surveys; United States (U.S.) government and contractor technical, engineering and logistical support services; and other related elements of logistics and program support. The estimated total cost was \$2.91 billion.

Major Defense Equipment (MDE) constituted \$2.01 billion of this total.

On October 17, 2018, Congress was notified by congressional certification transmittal number 18-0H of the possible sale, under Section 36(b)(5)(C) of the Arms Export Control Act, of the addition of the following MDE items: two (2) F110 General Electric or F100 Pratt & Whitney engines; four (4) iPDG; four (4) modular mission computers; four (4) Link-16 MIDS-JTRS; ninety-six (96) MXU-650C/B airfoil groups; ninety-six (96) MAU-209C/B or MAU-169D computer control groups; twelve (12) guidance units for AIM-9X-2 tactical missiles; and twelve (12) guidance units for AIM-9X-2 captive air training missiles (CATM). The following non-MDE items were also included: thirty (30) CATM-120C; twelve (12) joint helmet mounted cueing systems II; and twenty (20) aviator night vision devices AN/AVS-9. The total cost of the new MDE items was \$30.6 million, and the total cost of the new non-MDE items was \$5.6 million. The total notified cost of MDE increased to \$2.04 billion. The total case value did not increase and remained \$2.91 billion.

This transmittal notifies the inclusion of the following additional MDE items: four (4) F-16D Block 70/72 V configuration aircraft without engines; five (5) F110 General Electric or F100 Pratt & Whitney engines (4 installed, 1 spare); five (5) improved programmable display generators (iPDG) (4 installed, 1 spare); twelve (12) AN/AAQ-33 Sniper pods; five (5) embedded global positioning system inertial navigation systems (4 installed, 1 spare); one (1) Small Diameter Bomb increment I (SDB-I) guided test vehicle; one hundred twenty (120) GBU-39 SDB-I; twenty (20) LAU-129 guided missile launchers (16 installed, 4 spares); five (5) M61A1 anti-aircraft guns (4 installed, 1 spare); five (5) APG-83 Active Electronically Scanned Array

(AESA) radars (4 installed, 1 spare); five (5) 7000AH modular mission computers (4 installed, 1 spare); and five (5) Link-16 Multifunctional Information Distribution System—Joint Tactical Radio Systems. The following non-MDE items will also be included: AN/ALQ-254V(1) Viper Shield advanced electronic warfare suites, including lab assets (or equivalent); Infrared Search and Track (IRST) pods and processors; and other related elements of logistics and program support. The estimated total cost of the new items is \$990 million. The estimated MDE value will increase by \$609.4 million to a revised \$2.65 billion. The estimated non-MDE value will increase by \$380.6 million to a revised \$1.25 billion. The estimated total case value will increase by \$990 million to a revised \$3.90 billion.

(iv) *Significance*: This notification is being provided because the additional MDE items were not enumerated in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale will improve Slovakia's capability to meet current and future threats by maintaining its F-16 fleet in combat-ready status and providing a credible deterrent to regional threats.

(v) *Justification*: This proposed sale will support the foreign policy and national security objectives of the U.S. by helping to improve the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*:

The IRST is a high resolution, passive, infrared sensor system that searches for, detects, and tracks threats with infrared signatures at long ranges within its field of regard. It functions without emitting any radiation of its own and enables aircrews to detect adversaries before those adversaries see or sense them.

The Sensitivity of Technology Statement contained in the original notification applies to the other items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: December 16, 2025

[FR Doc. 2026-04619 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-79]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-79 and Policy Justification.

Dated: March 5, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

DEC 16 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-79, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Lebanon for defense articles and services estimated to cost \$34.5 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,


Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001-FR-C

Transmittal No. 25-79

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Lebanon

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$31.0 million
Other	\$ 3.5 million
TOTAL	\$34.5 million

Funding Source: Foreign Military Financing

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales (FMS) case LE-B-UAH was below congressional notification threshold at \$12.26 million (\$10.85 million in major defense equipment) and included fifty M1151A1 High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs). The Government of Lebanon has requested that the case be amended to include an additional

ninety M1151A1 HMMWVs. This amendment thus exceeds the notification threshold, therefore notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

One hundred forty (140) M115A1 high mobility multipurpose wheeled vehicles (HMMWVs)

Non-Major Defense Equipment:

The following non-MDE items will also be included: RF-7850M-HH multiband handheld radio; Global Positioning System (GPS) receiver; Quicklook electronic counter-countermeasures (ECCM) waveform; spare parts, repair parts, publications and technical documentation; training; United States (U.S.) Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (LE-B-UAH)

(v) *Prior Related Cases, if any:* None
(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* December 16, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Lebanon—M1151A1 High Mobility Multi-Purpose Wheeled Vehicles

The Government of Lebanon has requested to buy an additional ninety (90) M1151A1 High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs) that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales case, valued at \$12.26 million (\$10.85 million in MDE), included fifty M1151A1 HMMWVs. This notification

is for a combined total of one hundred forty HMMWVs. The following non-MDE items will also be included: RF-7850M-HH multiband handheld radio; Global Positioning System receiver; Quicklook electronic counter-countermeasures waveform; spare parts, repair parts, publications and technical documentation; training; U.S. Government and contractor engineering; technical and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$34.5 million.

This proposed sale will support the foreign policy and national security of the U.S. by improving the security of a partner country that continues to be an important force for political and economic stability in the Middle East.

The proposed sale will provide a highly mobile and light combat vehicle capability enabling Lebanese Armed Forces to rapidly engage and defeat perimeter security threats and readily employ counter- and anti-terrorism measures. This acquisition will afford additional military-to-military tactics and operational training among the U.S. Army's and Lebanon's leadership and soldiers. Lebanon will have no difficulty

absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be AM General, located in South Bend, IN. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Lebanon.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026-04624 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-99]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-99, Policy Justification, and Sensitivity of Technology.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

December 22, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-99, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Denmark for defense articles and services estimated to cost \$951 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael P. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 25-99

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Denmark

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$867 million
Other	\$ 84 million
TOTAL	\$951 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Two hundred thirty-six (236)
Advanced Medium Range Air to Air
Missiles—Extended Range
(AMRAAM-ER)

Five (5) AIM-120-C8 AMRAAM
guidance sections

Non-Major Defense Equipment:

The following non-MDE items will
also be included: AMRAAM-ER
load trainers, containers, and

support equipment; spare parts,
consumables and accessories, and
repair and return support; weapons
software and support equipment;
classified software delivery and
support; classified publications and
technical documentation; personnel
training and training equipment;
transportation support; United
States (U.S.) Government and
contractor engineering, technical,
and logistics support services; and
other related elements of logistics
and program support.

(iv) *Military Department:* Air Force
(DE-D-YAE)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid,
Offered, or Agreed to be Paid:* None
known at this time

(vii) *Sensitivity of Technology
Contained in the Defense Article or
Defense Services Proposed to be Sold:*
See Attached Annex

(viii) *Date Report Delivered to
Congress:* December 22, 2025

* as defined in Section 47(6) of the
Arms Export Control Act.

POLICY JUSTIFICATION

*Denmark—Advanced Medium Range
Air-to-Air Missiles—Extended Range*

The Government of Denmark has
requested to buy two hundred thirty-six
(236) Advanced Medium Range Air to
Air Missiles—Extended Range
(AMRAAM-ER); and five (5) AIM-120-
C8 guidance sections. The following
non-MDE items will also be included:
AMRAAM-ER load trainers, containers,
and support equipment; spare parts,
consumables and accessories, and repair
and return support; weapons software
and support equipment; classified
software delivery and support; classified
publications and technical
documentation; U.S. Government and
contractor engineering, technical, and
logistics support services; and other
related elements of logistics and
program support. The estimated total
cost is \$951 million.

This proposed sale will support the foreign policy and national security objectives of the U.S. by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Denmark's capability to meet current and future threats by ensuring it has modern, capable air-to-air munitions for its aircraft, and surface-to-air munitions for its ground-based air defenses. This sale will further advance the already high level of Danish Air Force interoperability with U.S. forces and other regional and NATO forces. Denmark will have no difficulty in absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Corporation, located in Arlington, VA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Denmark.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 25–99

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM–120–C8 Advanced Medium Range Air-to-Air Missile (AMRAAM) is a supersonic, air or surface-launched, aerial intercept guided missile featuring digital technology and micro-miniature solid-state electronics. AMRAAM capabilities include look-down/shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high and low-flying and maneuvering targets. This potential sale will include AMRAAM containers, load trainers, guidance sections, and control section spares.

a. The Advanced Medium Range Air-to-Air Missile-Extended Range (AMRAAM–ER) utilizes an AIM–120–C8 seeker and warhead joined with a new control section and rocket motor, applicable only for surface-launch mode applications for the National Advanced Surface-to-Air Missile System (NASAMS). This provides extended range and altitude as well as higher speed and maneuverability.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Denmark can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S.

foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Denmark.

[FR Doc. 2026–04622 Filed 3–9–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25–1U]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25–1U.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

December 15, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 25-1U. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 21-07 of December 15, 2020.

Sincerely,

Michael F. Miller
Director

Enclosure:

I. Transmittal

BILLING CODE 6001-FR-C

Transmittal No. 25-1U

**REPORT OF ENHANCEMENT OR
UPGRADE OF SENSITIVITY OF
TECHNOLOGY OR CAPABILITY (SEC.
36(B)(5)(C), AECA)**

(i) *Prospective Purchaser:* Government of Italy

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 21-07

Date: December 15, 2020

Implementing Agency: Air Force

(iii) *Description:* On December 15, 2020, Congress was notified by congressional certification transmittal number 21-07 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of four (4) Multifunctional Information Distribution Systems—Joint Tactical Radio System (MIDS JTRS) (2 installed, 2 spares); three (3) Embedded/GPS/INS (EGI) with GPS security devices, airborne (2 installed, 1 spare); and four (4) RIO™ Communications Intelligence Systems (2 installed, 2 spares). The following non-MDE items were also included: Missile Warning Sensors; AN/ALE-47 Countermeasure Dispenser Sets (CMOS); MX-20HD Electro-Optical and

Infra-Red systems; Osprey 50 AESA Radars; AISREW ISR equipment; Secure Communications equipment; Identification Friend or Foe Systems; aircraft modification and integration; ground systems for data processing and crew training; ground support equipment; publications and technical data; United States (U.S.) Government and contractor engineering, technical, and logistics support services; flight test and certification; and other related elements of logistical and program support. The estimated total cost was \$500 million. Major Defense Equipment (MDE) constituted \$10 million of this total.

This transmittal notifies the inclusion of the following additional MDE items: one (1) Embedded/GPS/INS (EGI) with GPS security device; and one (1) Communications Intelligence (COMINT) Systems Sensor Suite. The following non-MDE items are also included: aircraft components, parts, and accessories; transportation support; and other related elements of logistics and program support. The estimated total cost of the new items is \$220 million. The estimated MDE value will increase by \$3 million to a revised \$13 million.

The estimated non-MDE value will increase by \$217 million to a revised \$707 million. The estimated total case value will increase by \$220 million to a revised \$720 million.

(iv) *Significance:* This notification is being provided because the MDE and non-MDE items were not enumerated in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale supports and complements the ongoing efforts of Italy to modernize its airborne Intelligence, Surveillance, Reconnaissance, and Electronic Warfare capability and increases interoperability between the U.S. Air Force and the Italian Air Force (ITAF).

(v) *Justification:* This proposed sale will support the foreign policy and national security objectives of the U.S. by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology:* COMINT Systems Sensor Suite
The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: December 15, 2025

[FR Doc. 2026-04625 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-1T]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or

dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-1T.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY 2800 Defense Pentagon Washington, DC 20301-2800

December 15, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 25-1T. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 24-40 of June 7, 2024.

Sincerely,

Michael F. Miller
Director

Enclosure:
1. Transmittal

BILLING CODE 6001-FR-C

Transmittal No. 25-1T

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser*: Government of Denmark

(ii) *Sec. 36(b)(1), AECA Transmittal No.*: 24-40

Date: June 7, 2024

Implementing Agency: Air Force

(iii) *Description*: On June 7, 2024, Congress was notified by Congressional certification transmittal number 24-40 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of eighty-four (84) AIM-120C-8 Advanced Medium-Range Air-to-Air Missiles (AMRAAM); and three (3) AIM-120 AMRAAM guidance sections. The following non-MDE items were also included: spare AMRAAM control sections; containers and support

equipment; munitions support and support equipment; spare parts, consumables, accessories, and repair and return support; weapons software and support equipment; classified software delivery and support; transportation support; classified publications and technical documentation; studies and surveys; United States (U.S.) Government and contractor engineering, technical, and logistics support services; and other

related elements of logistics and program support. The estimated total cost was \$215.5 million. Major Defense Equipment (MDE) constituted \$190.6 million of this total.

This transmittal notifies an increase in MDE value by \$125.6 million, and non-MDE value by \$16.5 million due to recent cost increases. There are no additional MDE or non-MDE items being reported with this notification. The estimated total case value will increase by \$142.1 million to a revised \$357.6 million. MDE will constitute \$316.2 million of this total.

(iv) *Significance*: This notification is being provided due to recent cost increases that have brought about the need to add value to the original notification. The proposed value increase will further advance the already high level of Danish Air Force interoperability with U.S. Joint Forces and other regional and NATO forces.

(v) *Justification*: This proposed sale will support the foreign policy and national security objectives of the U.S.

by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*: The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: December 15, 2025

[FR Doc. 2026-04626 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-106]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-106 and Policy Justification.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY

2800 Defense Pentagon
Washington, DC 20301-2800

December 29, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-106, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$200 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001–FR–C

Transmittal No. 25–106

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Poland

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0 million
Other	\$200 million

TOTAL	\$200 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales (FMS) case PL–D–TAH was below congressional notification threshold at \$95 million (\$0 in major defense equipment (MDE)) and included personnel training and training equipment; United States (U.S.) Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The Government of Poland has requested that the case be amended to include training aids and other related elements of logistics and program support. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

None

Non-Major Defense Equipment:

The following non-MDE items will be included: training aids; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (PL–D–TAH)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* December 29, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—Blanket Order Training

The Government of Poland has requested to buy training aids and other related elements of logistics and program support that will be added to

a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case, valued at \$95 million (\$0 in major defense equipment (MDE)), included personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. This notification is for a combined total of non-MDE training aids; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$200 million.

This proposed sale will support the foreign policy and national security of the U.S. by improving the security of a NATO Ally that is a force for political and economic stability in Europe.

The proposed sale will enhance Poland's capability to meet current and future threats and increase its interoperability with the U.S. and other NATO members and its allies through comprehensive U.S. Air Force Training. Poland will have no difficulty absorbing this training into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There is no principal contractor associated with this potential sale. Training will be provided by U.S. Government or contract vendors based upon requirements as they are determined. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Poland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026–04620 Filed 3–9–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Publication of Housing Price Inflation Adjustment

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of housing price inflation adjustment for calendar year 2026.

SUMMARY: The Department of War is publishing this notice to announce the 2026 Rent Threshold under the Servicemembers Civil Relief Act (SCRA). Applying the housing price inflation adjustment, the maximum monthly rental amount calculated as of January 1, 2026, is \$10,542.60.

DATES: These housing price inflation adjustments are effective January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Maj. Jacqueline McDermott-Wintch, (703) 571–0106 (voice), osd.pentagon.ousd-p-r.mbx.legal-policy@mail.mil (email).

SUPPLEMENTARY INFORMATION: The SCRA, as codified at 50 United States Code (U.S.C.) 3951, prohibits a landlord from evicting a service member (or the service member's family) from a residence during a period of military service, except by court order. The law as originally passed by Congress applied to dwellings with monthly rents of \$2,400 or less. The SCRA requires the Secretary of War to adjust this amount annually to reflect inflation and to publish the new amount in the **Federal Register**. Applying the housing price inflation adjustment for 2026, the maximum monthly rental amount for 50 U.S.C. 3951 (a)(1)(A)(2) as of January 1, 2026, is \$10,542.60.

Dated: March 6, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–04689 Filed 3–9–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25–100]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21,

1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-100 and Policy Justification.

Dated: March 5, 2026.
Stephanie J. Bost,
*Alternate OSD Federal Register Liaison
 Officer, Department of Defense.*
BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

December 22, 2025

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-100, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Spain for defense articles and services estimated to cost \$200 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
 Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001-FR-C

Transmittal No. 25-100

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Spain

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 50 million
Other	\$150 million
TOTAL	\$200 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales (FMS) case SP-P-LIC was below congressional notification threshold at \$98.80 million (\$11.25 million in MDE) and included fifty (50)

F-404 Engine Fans, Computer Power Supply (CP-1325/APG-65), Receiver Exciter (R-2089/APG-65), associated services and equipment, spare parts, consumables, and accessories, classified software delivery and support. The Government of Spain has requested that the case be amended to include an additional two hundred (200) F-404 Engine Fans, Computer Power Supply (CP-1325/APG-65), Receiver Exciter (R-2089/APG-65, associated services and equipment, spare parts, consumables, and accessories, classified software delivery and support. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows.
Major Defense Equipment (MDE):

Two hundred fifty (250) F-404 Engine Fans

Non-Major Defense Equipment:

The following non-MDE items will also be included: Computer Power Supply (CP-1325/APG-65), receiver Exciter (R-2089/APG-65), associated services and equipment, spare parts, consumables, and accessories, repair and return support; classified software delivery and support; classified and unclassified publications, technical documentation; personnel training and training equipment; studies and surveys; Contractor Logistics Support (CLS); United States (U.S.) Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program

support.

(iv) *Military Department*: Navy (SP-P-LIC)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: None

(viii) *Date Report Delivered to Congress*: December 22, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Spain—F-404 Engine Fans

The Government of Spain has requested to buy an additional two hundred fifty (250) F-404 engine fans that will be added to a previous implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case was valued at \$98.80 million (\$11.25 million in MDE) and included fifty (50) F-404 engine fans, Computer Power Supply (CP-1325/ APG-65), Receiver Exciter (R-2089/ APG-65), spare parts, consumables, and accessories, classified software delivery and support. This notification is for a combined total of two hundred fifty (250) F-404 engine fans. The following non-MDE items will also be included: Computer Power Supply (CP-1325/ APG-65), Receiver Exciter (R-2089/ APG-65), associated services and equipment, spare parts, consumables, and accessories, and classified software

delivery and support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$200 million.

The proposed sale will support the foreign policy and national security objectives of the U.S. by improving the security of a North Atlantic Treaty Organization (NATO) ally that is an important force for political stability and economic progress in Europe.

The proposed sale will improve Spain's capability to meet current and future threats and will enhance interoperability with U.S. forces and other allied forces. The enhanced capability will also strengthen its homeland defense. Spain will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The F-404 engine fans will be transferred from United States Navy stock. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026-04621 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-97]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-97 and Policy Justification.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2800

December 18, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-97, concerning the Army's proposed Letter(s) of Offer and Acceptance to the NATO Support and Procurement Agency for defense articles and services estimated to cost \$136.1 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001-FR-C

Transmittal No. 25-97

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* NATO Support and Procurement Agency (NSPA) for Germany, Italy, and the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$	0 million
Other	\$	136.1 million
TOTAL		\$136.1 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales case N4-B-VQX was below congressional notification threshold at \$50.7 million (\$0 in MDE) and included booster pellets; flight motors; gas generators; Stinger warheads sections; and United States (U.S.) Government and contractor engineering

and technical services. NSPA has requested that the case be amended to include additional non-Major Defense Equipment. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

None

Non-Major Defense Equipment:

The following non-MDE items will be included: booster pellets; flight motors; gas generator cartridges; Stinger warheads sections; U.S. Government and contractor technical, engineering, and logistics support services; technical documentation; and other related elements of logistics and program support.

(iv) *Military Department:* Army (N4-B-VQX)

(v) *Prior Related Cases, if any:* N4-B-VQY

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* December 18, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

NATO Support and Procurement Agency—Stinger Service Life Extension Program Components, Parts, and Services

The NATO Support and Procurement Agency (NSPA) manages the Stinger Service Life Extension Program on behalf of Germany, Italy, and the Netherlands, and has requested to buy additional booster pellets; flight motors; gas generator cartridges; Stinger warheads sections; U.S. Government and contractor technical, engineering, and logistics support services; technical

documentation; and other related elements of logistics and program support that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales case, valued at \$50.7 million, included the following non-MDE items: booster pellets; flight motors; gas generators; Stinger warheads sections; and U.S. Government and contractor engineering and technical services. The estimated total cost is \$136.1 million.

This proposed sale will support the foreign policy and national security objectives of the U.S. by improving the security of NATO partners that are a force for political stability and economic progress.

The proposed sale will improve NATO Allies' capability to meet current and future threats and enhance interoperability with U.S. and other allied forces. This proposed sale will contribute to U.S. and NATO defense goals by increasing readiness and enhancing the air defense capabilities of NATO Allies. Germany, Italy, and the Netherlands will have no difficulty absorbing this equipment into their armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be PTI Technologies Inc., located in Oxnard, CA; and L3 Harris, located in Melbourne, FL. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to NSPA.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026-04623 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-10]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 26-10, Policy Justification, and Sensitivity of Technology.

Dated: March 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
 2800 Defense Pentagon
 Washington, DC 20301-2800

December 15, 2025

The Honorable Mike Johnson
 Speaker of the House
 U.S. House of Representatives
 H-209, The Capitol
 Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 26-10, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost \$100.2 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
 Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 6001-FR-C

Transmittal No. 26-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Japan

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$	0 million
Other	\$	100.2 million

TOTAL \$100.2 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-Major Defense Equipment:

The following non-MDE items will be included: Follow-on technical support of Aegis class destroyers, to include Combat Systems Sea Qualification Trials (CSSQT); test and evaluation services; sustainment support and services; Aegis computer software updates;

systems integration and testing, in-country and on-site engineering support; all necessary emergent engineering and technical support services; familiarization, operational support; system overhauls; system upgrades; on-the-job practical operations and maintenance; combat systems integration; development, testing, and installation of program patches; adaptation data and annual service agreements; fielding technical inquiries by the purchaser; operational integration and maintenance support; field service engineering; problem investigation; technical assistance; support solutions to technical problems arising from post-production; testing capabilities; supporting United States (U.S.) Government contractors and technical engineers; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (JA-P-QQU)

(v) *Prior Related Cases, if any:* JA-P-QCX; JA-P-QEZ; JA-P-QKW; JA-P-QPI

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* December 16, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan—Aegis Class Destroyer Support

The Government of Japan has requested to buy follow-on technical support of Aegis class destroyers, including Combat Systems Sea Qualification Trials (CSSQT); test and evaluation services; sustainment support and services; Aegis computer software updates; systems integration

and testing, in-country and on-site engineering support; all necessary emergent engineering and technical support services; familiarization, operational support; system overhauls; system upgrades; on-the-job practical operations and maintenance; combat systems integration; development, testing, and installation of program patches; adaptation data and annual service agreements; fielding technical inquiries by the purchaser; operational integration and maintenance support; field service engineering; problem investigation; technical assistance; support solutions to technical problems arising from post-production; testing capabilities; supporting U.S. Government contractors and technical engineers; and other related elements of logistics and program support. The estimated total cost is \$100.2 million.

This proposed sale will support the foreign policy goals and national security objectives of the U.S. by improving the security of a major ally that is a force for political stability and economic progress in the Indo-Pacific.

The proposed sale will improve Japan's capability to meet current and future threats by ensuring Japan Maritime Self Defense Force's (JMSDF) Aegis fleet remains ready to provide critical capabilities in the defense of Japan. Specifically, the requested CSSQT services will provide JMSDF with capability support that is vital to the effective and safe operations of the Aegis Combat Systems (ACS) suite. Japan continues to modernize its fleet to support Integrated Air and Missile Defense (IAMD) roles and special mission requirements. The JMSDF Aegis Fleet will fulfill Japan's mission goal of acquiring and maintaining their Aegis capable ships and will further enhance interoperability with the U.S. Navy, build upon a longstanding cooperative effort with the U.S., and provide enhanced capability with a valued partner in a geographic region of critical importance to Japan and the U.S. Government. The Aegis destroyers in Japan's fleet afford greater flexibility and capability to counter regional threats and to enhance stability in the region. Japan currently operates Aegis ships, is proficient at using their evolving ballistic missile defense capability, and is effective at employing the AN/SQQ-89A(V)15J undersea warfare combat system for undersea surveillance and detection. Japan will have no difficulty absorbing these services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation, located in Moorestown, NJ. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Japan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Aegis Weapon System (AWS) is a multi-mission combat system providing Integrated Air and Missile Defense (IAMD) for surface ships. The follow-on technical support includes Combat System Ship Qualification Trials (CSSQT) test and evaluation (T&E) services, and software in support of AWS Baseline 9 with integrated Ballistic Missile Defense (BMD).

2. The CSSQT services for Japan's Aegis System Equipped Vessels (ASEV) are critical to ensuring that the Japan Maritime Self Defense Force's (JMSDF) Aegis destroyer fleet remains ready to provide critical capabilities in the defense of Japan. Specifically, the requested CSSQT services provide the JMSDF with capability support vital to the effective and safe operations of the Aegis Combat Systems (ACS) suite.

3. The Aegis CSSQT services facilitate Japan's MSDF's multi-mission Aegis destroyers' ability to meet readiness and operational requirements to include Ballistic Missile Defense, Air Defense Warfare (ADW), surface warfare (SUW), Naval Gun Fire Support (NGFS), Anti-Submarine Warfare (ASW), and electronic warfare (EW) missions. CSSQT includes in-port assessment of shipboard systems, Waterfront Integration Testing (WIT), CSSQT-specific training, and installation of telemetry and support equipment. It also includes at-sea support of the range, target launch/recovery, and boat and aircraft services at Oahu Operation Area and Pacific Missile Range Facility (PMRF) in Kauai, Hawaii.

4. The at-sea CSSQT events provide tracking and live-fire events of ADW, including IAMD, SUW, Undersea

Warfare (USW), EW, and Command, Control, and Communications (CCC).

5. After completing CSSQT events, the USN will analyze data and deliver a final report to document system performance during CSSQT. ADW live fire events will use Standard Missile SM-2, SM-6, and Enhanced Sea Sparrow Missile (ESSM) from JMSDF inventory. SUW and ASW live fire events will use JMSDF inventory of gun ammunition and torpedoes.

6. The CSSQT Services do not provide specific technology to Japan. The test scenarios developed are based on the capabilities included in the ACS suite.

7. Japan currently operates eight Aegis destroyers with BMD capability. Japan signed a General Security of Military Information Agreement (GSOMIA), and continues to make progress in safeguarding information. Japan was the first foreign customer to purchase the AWS and is the only foreign customer with Aegis BMD capability. Japan has scrupulously complied with end use monitoring requirements and there is no evidence of physical tampering or compromise of hardware since Japan first purchased the AWS in the early 1990s. Japan currently operates, maintains, and supports the BMD capability in four Kongo class destroyers, two Atago class destroyers, and two Maya class destroyers, demonstrating a high level of readiness and proficiency. Japan has completed CSSQTs on all previous Aegis equipped ships.

8. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

9. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

10. A determination has been made that Japan can provide substantially the same degree of protection for the sensitive technology being released by the U.S. Government. The sale is necessary in the furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

11. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Japan.

[FR Doc. 2026-04618 Filed 3-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF ENERGY**Certification Notice—258; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act**

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On September 7, 2021, South Field Energy LLC (SFE), as owner and operator of the South Field Energy Project, a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to *Electricity.Exports@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Marina Fennel at (240) 702-6156, *Electricity.Exports@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On September 7, 2021, SFE, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to section 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload

electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: South Field Energy LLC.

Design Capacity: 1,182 megawatts.

Fuel to be Used: Natural gas.

Plant Location: 43250 Hibbetts Mill Road, Wellsville, OH 43968.

In-Service Date: September 2021.

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026-04636 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Environmental Management Site-Specific Advisory Board, Oak Ridge**

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 8, 2026; 6–8 p.m. EDT.

ADDRESSES: Department of Energy (DOE) Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831. This meeting will be held in-person at the DOE Information Center and virtually. To receive the virtual access information, please send an

email to: *orssab@orem.doe.gov* at least two days prior to the meeting.

FOR FURTHER INFORMATION CONTACT:

Melyssa P. Noe, Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 4067, EM-94, Oak Ridge, TN 37831; Phone (865) 241-3315; or Email: *Melyssa.Noe@orem.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on other EM program components. The Board also provides an avenue to fulfill public participation requirements outlined in the National Environmental Policy Act (NEPA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please email *orssab@orem.doe.gov* for the most current agenda).

- OREM Presentation to the Board
- Discussion
- Public Comment Period
- Board Business

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please email *orssab@orem.doe.gov*. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/oreo/listings/oak-ridge-site-specific-advisory-board-meetings>.

Signing Authority: This document of the Department of Energy was signed on March 6, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 6, 2026.

Jennifer Hartzell,

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

[FR Doc. 2026-04686 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/livestreamed meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, April 16, 2026; 5:30–7 p.m. CDT.

ADDRESSES: West Kentucky Community and Technical College (WKCTC), Emerging Technology Center, Room 215, 5100 Alben Barkley Drive, Paducah, Kentucky 42001. This meeting will be held in-person at the WKCTC Emerging Technology Center, Room 215 and livestreamed. The meeting will be streamed on YouTube at [https://](https://www.youtube.com/@pppoadvisoryboards8584)

www.youtube.com/@pppoadvisoryboards8584; no registration is necessary.

FOR FURTHER INFORMATION CONTACT:

Zachary Boyarski at by Phone: (270) 441-6812 or Email: Zachary.Boyarski@pppo.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on other EM program components. The Board also provides an avenue to fulfill public participation requirements outlined in the National Environmental Policy Act (NEPA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please contact Zachary Boyarski for the most current agenda)

- Administrative Activities
- Public Comment Period

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please contact Zachary Boyarski at Zachary.Boyarski@pppo.gov. The EM SSAB, Paducah, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Zachary Boyarski at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members

or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials>.

Signing Authority: This document of the Department of Energy was signed on March 6, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 6, 2026.

Jennifer Hartzell,

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

[FR Doc. 2026-04688 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Certification Notice—265; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On October 14, 2025, Clean Energy Future—Trumbull, LLC (Trumbull), as owner and operator of the Trumbull Energy Center, a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Marina Fennel at (240) 702-6156, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On October 14, 2025, Trumbull, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:
Owner: Clean Energy Future—Trumbull, LLC
Design Capacity: Approximate seasonal average capacity of 940 megawatts
Fuel To Be Used: Natural gas
Plant Location: Lordstown, OH, 44481
In-Service Date: December 2025

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026–04643 Filed 3–9–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Certification Notice—260; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On August 25, 2022, Guernsey Power Station LLC (Guernsey), as owner and operator of the Guernsey Power Station, a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Marina Fennel at (240) 702–6156, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On August 25, 2022, Guernsey, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy

(Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: Guernsey Power Station LLC.
Design Capacity: 1,875 megawatts.
Fuel to be Used: Natural gas.
Plant Location: 11160 Seneca Lane, Byesville, OH 43723.
In-Service Date: December 2022.

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026–04637 Filed 3–9–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Certification Notice—264]

Certification Notice—264; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On August 26, 2025, CPV Basin Ranch, LLC (CPV Basin Ranch), as owner and operator of the CPV Basin Ranch Energy Center, a new baseload electric generating powerplant,

submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to *Electricity.Exports@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Marina Fennel at (240) 702-6156, *Electricity.Exports@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On August 26, 2025, CPV Basin Ranch, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: CPV Basin Ranch, LLC

Design Capacity: Seasonal average capacity of 1,350 megawatts

Fuel To Be Used: Natural gas

Plant Location: 535 Private Road 177, Pecos, TX 79772

In-Service Date: December 2028

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026-04642 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Certification Notice—262; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On April 21, 2022, PowerSouth Energy Cooperative (PowerSouth), as owner and operator of the Lowman Energy Center, a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to *Electricity.Exports@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Marina Fennel at (240) 702-6156, *Electricity.Exports@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On April 21, 2022, PowerSouth, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to § 201(d) of the Powerplant

and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: PowerSouth Energy Cooperative.

Design Capacity: 688 megawatts.

Fuel to be Used: Natural gas.

Plant Location: 4932 Carson Road, Leroy, AL 36548.

In-Service Date: March 2023.

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026-04639 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Certification Notice—261; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity,
Department of Energy.

ACTION: Notice of filing.

SUMMARY: On May 11, 2021, Long Ridge Energy Generation LLC (Long Ridge), as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Marina Fennel at (240) 702-6156, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On May 11, 2021, Long Ridge, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the DOE pursuant to section 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or

prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: Long Ridge Energy Generation LLC

Design Capacity: Approximately 485 megawatts

Fuel To Be Used: Natural gas

Plant Location: 43840 State Route 7,
Hannibal, OH 43931

In-Service Date: Testing began May 2021

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026-04638 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Certification Notice—263; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity,
Department of Energy.

ACTION: Notice of filing.

SUMMARY: On June 28, 2023, Rayburn Energy Station LLC (RES), as the new owner of the Rayburn Energy Station, a baseload electric generating powerplant formerly known as Panda Sherman, submitted an amended coal capability

self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, by contacting the Office of Electricity by electronic mail to Electricity.Exports@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Marina Fennel at (240) 702-6156, Electricity.Exports@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On June 28, 2023, RES, as the new owner of an existing baseload electric generating powerplant, submitted an amended coal capability self-certification to the DOE pursuant to section 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations in 10 CFR 501.61(a). The amendment application reflects RES’ asset purchase and sale agreement of the Rayburn Energy Station (formerly known as the Panda Sherman Project) from Panda Sherman Power, LLC (Panda Sherman). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. See 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that “no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source.” 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. See 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.*; 10 CFR 501.61(b). Panda Sherman’s self-certification was submitted to DOE on July 16, 2014, but was not noticed in the **Federal Register** due to clerical error. Certification Notice—263 serves as the notice of filing for Panda Sherman’s original self-certification submission and RES’ self-certification amendment.

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to

FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Previous Owner: Panda Sherman Power, LLC.

New Owner: Rayburn Energy Station LLC.

Previous Operator: PPG—O&M Panda Sherman Power, LLC.

New Operator: NAES Corporation.

Change Effective Date: June 21, 2023.

Design Capacity: 758 megawatts.

Fuel to be Used: Natural gas.

Plant Location: 510 Progress Drive, Sherman, TX 75092.

In-Service Date: July 30, 2014.

Signing Authority

This document of the Department of Energy was signed on February 6, 2026, by Catherine Jereza, Assistant Secretary, Office of Electricity, 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 March 6, 2026.

Treena V. Garrett,

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

[FR Doc. 2026-04640 Filed 3-9-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2735-105]

Pacific Gas & Electric Company; Notice of Reasonable Period of Time for Water Quality Certification Application

On February 12, 2026 the California State Water Resources Control Board (California Water Board) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Pacific Gas & Electric Company, in conjunction with the above captioned project on January 16, 2026. Pursuant to

the Commission's regulations,¹ we hereby notify the California Water Board of the following dates.

Date of Receipt of the Certification

Request: January 16, 2026.

Reasonable Period of Time to Act on the Certification Request: One year (January 16, 2027).

If the California Water Board fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

(Authority: 18 CFR 2.1)

Dated: March 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-04660 Filed 3-9-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26-69-000.

Applicants: AEP Indiana Michigan Transmission Company, Inc., Mammoth North LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of AEP Indiana Michigan Transmission Company, Inc., et al.

Filed Date: 3/4/26.

Accession Number: 20260304-5228.

Comment Date: 5 p.m. ET 3/25/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-164-000.

Applicants: SR Bacon, LLC.

Description: SR Bacon, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5096.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-165-000.

Applicants: SR Bacon II, LLC.

Description: SR Bacon II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5098.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-166-000.

Applicants: SR Bacon III, LLC.

¹ 18 CFR 5.23(b)(2).

Description: SR Bacon III, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5103.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-167-000.

Applicants: Horus Kentucky 1, LLC.

Description: Horus Kentucky 1, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5109.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-168-000.

Applicants: SR Middleton, LLC.

Description: SR Middleton, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5112.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-169-000.

Applicants: SR Rochelle, LLC.

Description: SR Rochelle, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5113.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-170-000.

Applicants: SR Rochelle II, LLC.

Description: SR Rochelle II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5121.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-171-000.

Applicants: SR Puryear, LLC.

Description: SR Puryear, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5124.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: EG26-172-000.

Applicants: SR Tullahoma, LLC.

Description: SR Tullahoma, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/5/26.

Accession Number: 20260305-5125.

Comment Date: 5 p.m. ET 3/26/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20-681-015.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Supplement to 02/02/2026, Notice of Change in Status of Tri-State Generation and Transmission Association, Inc.

Filed Date: 3/4/26.

Accession Number: 20260304-5232.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER20–681–010;
ER20–681–012.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Supplement to Errata to 07/01/2024, and 06/30/2025, Notice of Change in Status of Tri-State Generation and Transmission Association, Inc.

Filed Date: 3/4/26.

Accession Number: 20260304–5234.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER21–1945–004.

Applicants: NTE Ohio, LLC.

Description: Refund Report: Ohio Power Partners, LLC submits tariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 3/5/26.

Accession Number: 20260305–5210.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER21–1945–005.

Applicants: NTE Ohio, LLC.

Description: Compliance filing: Ohio Power Partners, LLC submits tariff filing per 35: Settlement Compliance Filing to be effective 11/24/2025.

Filed Date: 3/5/26.

Accession Number: 20260305–5220.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER25–2142–001.

Applicants: MATL LLP.

Description: Compliance filing: Second Compliance Filing Order 676–K ER25–2142 to be effective 2/27/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5001.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–859–001.

Applicants: Invenergy Grid Midwest LLC.

Description: Tariff Amendment: 2026–03–04 Amendment to Formula Rate Filing to be effective 3/7/2026.

Filed Date: 3/4/26.

Accession Number: 20260304–5209.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER26–964–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2026–03–05 SA 4654 Entergy AR–SWPA IOA 2nd Sub Certificate of Concurrence to be effective 1/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5101.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1003–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment SA No. 7767—NITSA among PJM and Hyperscale Energy to be effective 1/20/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5184.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1481–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 4648 City of Fountain, Colorado and Colorado Springs Utilities Meter Agent Agr to be effective 4/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5051.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1615–000.

Applicants: Citi Prepaid Energy LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 3/5/2026.

Filed Date: 3/4/26.

Accession Number: 20260304–5200.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER26–1616–000.

Applicants: Citigroup Commodities Canada ULC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 3/5/2026.

Filed Date: 3/4/26.

Accession Number: 20260304–5203.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER26–1617–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA, Service Agreement No. 7898; AF2–349 to be effective 2/2/2026.

Filed Date: 3/4/26.

Accession Number: 20260304–5204.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER26–1618–000.

Applicants: Municipal Prepaid Energy 1, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 3/5/2026.

Filed Date: 3/4/26.

Accession Number: 20260304–5206.

Comment Date: 5 p.m. ET 3/25/26.

Docket Numbers: ER26–1619–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: Fourth Revised Service Agreement Nos. 324 and 342 to be effective 7/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5000.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1621–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4645 Salt Branch Solar Surplus Interconnection GIA to be effective 5/4/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5122.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1623–000.

Applicants: International Transmission Company.

Description: MISO Schedule 50 Cost Recovery Filing of International Transmission Company.

Filed Date: 3/5/26.

Accession Number: 20260305–5130.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1624–000.

Applicants: International Transmission Company.

Description: MISO Schedule 50 Cost Recovery Filing of International Transmission Company.

Filed Date: 3/5/26.

Accession Number: 20260305–5131.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1625–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4646 Mayes Solar Surplus Interconnection GIA to be effective 3/5/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5149.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1626–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP—Firefly Energy Amended and Restated ASOA SA No. 446 to be effective 5/5/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5150.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1627–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista RS T1276 Jane Wind 1 Cert of Concurrence to be effective 6/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5155.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1628–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4654 Kay Wind Replacement GIA to be effective 2/23/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5160.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1629–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp RS T1277 Jane Wind 2 Cert of Concurrence to be effective 6/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5163.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1630–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA Service Agreement No. 7941 Project Identifier No. AF2–441 to be effective 2/4/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5169.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1631–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Rate Schedule FERC No. 383 to be effective 3/31/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5171.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1632–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp.—LTF PTP Agreement FERC RS T–1258 Enel Green Power to be effective 6/1/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5188.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1633–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Michigan Electric Transmission Company, LLC submits tariff filing per 35.13(a)(2)(iii): 2026–03–05 SA 4699 METC-Allegan Solar E&P (J2786) to be effective 3/5/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5222.

Comment Date: 5 p.m. ET 3/26/26.

Docket Numbers: ER26–1634–000.

Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: Duke Energy Carolinas, LLC submits tariff filing per 35.13(a)(2)(iii): Duke Retail Deferral Adjustment Mechanism Filing to be effective 5/5/2026.

Filed Date: 3/5/26.

Accession Number: 20260305–5237.

Comment Date: 5 p.m. ET 3/26/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as

interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: March 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–04661 Filed 3–9–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–2–000]

Commission Information Collection Activities (FERC–915) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission, FERC–915 (Public Utility Market-Based Rate Authorization Holders—Records Retention Requirements), will be submitted to the Office of Management and Budget (OMB) for review. There are no proposed changes to the record retention requirements.

DATES: Comments on the collection of information are due April 9, 2026.

ADDRESSES: Send written comments on FERC–915 to OMB through https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202601-1902-007. You can also visit <https://www.reginfo.gov/public/do/PRAMain> and use the drop-down under “Currently under Review” to select the “Federal Energy Regulatory Commission” where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to DataClearance@FERC.gov. You must specify the Docket No. (IC26–2–000) and the FERC Information Collection number (FERC–915) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *All other delivery methods:* Federal Energy Regulatory Commission,

Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit <https://elibrary.ferc.gov/eLibrary/search>.

FOR FURTHER INFORMATION CONTACT:

Kayla Williams, (202) 502–6468.

DataClearance@FERC.gov.

SUPPLEMENTARY INFORMATION:

Title: FERC–915, Public Utility Market-Based Rate Authorization Holders—Records Retention Requirements.

OMB Control No.: 1902–0250.

Type of Request: Three-year extension of the FERC–915 information collection requirements with no changes to the current record retention requirements.

Abstract: In accordance with the Federal Power Act, the Department of Energy Organization Act (DOE Act), and the Energy Policy Act of 2005 (EPAct 2005), the Commission regulates the transmission and wholesale sales of electricity in interstate commerce, monitors and investigates energy markets, uses civil penalties and other means against energy organizations and individuals who violate FERC rules in the energy markets, administers accounting and financial reporting regulations, and oversees the conduct of regulated companies.

The Commission imposes the FERC–915 record retention requirements (18 CFR 35.41(d)) on applicable sellers to retain, for a period of five years, all data and information upon which they bill the prices charged for “electric energy or electric energy products sold pursuant to Seller’s market-based rate tariff, and the prices it reported for use in price indices.”

The record retention period of five years is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is also necessary to ensure consistency with the rule prohibiting market manipulation (adopted in Order No. 670)¹ and the generally applicable statute of limitations where the Commission seeks civil penalties for violations of the Anti-Manipulation Rules or other rules, regulations, or orders to which the price data may be relevant.

Type of Respondent: Sellers, as that term is defined in 18 CFR 35.36.

¹ Prohibition of Energy Market Manipulation, Order No. 670, 71 FR 4244 (Jan. 26, 2006), FERC Stats. & Regs. ¶ 31,202 (2006).

*Estimate of Annual Burden:*² The Commission estimates the annual public reporting burden and cost³ (rounded) for the information collection as follows:

FERC requirement	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hours & cost	Annual cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC-915	2,510	1	2,510	1 hr.; \$36	2,510 hrs.; \$90,360	\$36
Total .....	.....	.....	2,510	.....	2,510 hrs.; \$90,360	.....

In addition, there are records storage costs. For all respondents, we estimate a total of 65,000 cu. ft. of records in off-site storage. Based on an approximate storage cost of \$0.24 per cubic foot, we estimate total annual storage cost to be \$15,600.00 (or \$6.22 annually per respondent). The total annual cost for all respondents (burden cost plus off-site storage) is \$100,940.00 (or \$85,340 + \$15,600); the average total annual cost per respondent is \$40.22 (\$6.22 + \$34.00).⁴

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

² Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

³ The estimated hourly cost (for wages plus benefits) provided in this section are based on the figures posted by the Bureau of Labor Statistics (BLS) for the Utilities section available at (https://www.bls.gov/oes/current/naics2_22.htm)—April 2025. The hourly estimates for salary plus benefits are: File Clerk (Occupation code: 43-4071), \$35.94 an hour, rounded to an hourly cost to \$36.

⁴ Given that the Commission has found (1) that Sellers use standard computer-based methods to store the retained information automatically on electronic media and (2) that storage space needed costs pennies per Gigabyte, estimating burden and storage assuming use of traditional paper records provides an extreme boundary on the estimated costs.

Dated: March 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-04665 Filed 3-9-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2607-016]

Spencer Mountain Hydropower, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a subsequent license to continue to operate and maintain the Spencer Mountain Hydroelectric Project No. 2607 (project). The 640-kilowatt project is located on the South Fork Catawba, near the town of Gastonia, in Gaston County, North Carolina. Commission staff has prepared an Environmental Assessment (EA) for the project.¹

The EA contains staff's analysis of the potential environmental effects of the project and concludes that issuing a subsequent license for the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA 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

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1742805952.

in the docket number field, to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov, or at (866) 208-3676 (toll-free), or (202) 502-8659 (TTY).

You may also register online at <https://ferconline.ferc.gov/ferconline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed on or before 5:00 p.m. Eastern Time on April 6, 2026.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <https://ferconline.ferc.gov/ferconline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-2607-016.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595, or at OPP@ferc.gov.

For further information, contact David Gandy at (202) 502-8560, or by email at david.gandy@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: March 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-04663 Filed 3-9-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9028-012]

Banister Hydro, Inc.; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 9028-012.

c. *Date filed:* July 26, 2024.

d. *Applicant:* Banister Hydro, Inc. (Banister Hydro).

e. *Name of Project:* Halifax Hydroelectric Project (Halifax Project or project).

f. *Location:* On the Banister River, near the Town of Halifax in Halifax County, Virginia.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Sherri Loon, Coordinator of Operations—USA, Banister Hydro, Inc c/o KEI (USA) Power Management Inc., 423 Brunswick Ave., Gardiner, ME 04345; (207) 203-3026; sherri.loon@kruger.com or Lewis Loon, General Manager, Operations and Maintenance—USA, Banister Hydro, Inc. c/o KEI (USA) Power Management Inc., 423 Brunswick Ave., Gardiner, ME 04345; (207) 203-3027; lewis.loon@kruger.com.

i. *FERC Contact:* Chris Millard at (202) 502-8256, or christopher.millard@ferc.gov.

j. *Deadline for filing comments, recommendations, terms and conditions, and fishway prescriptions:* on or before 5:00 p.m. Eastern Time on May 4, 2026; reply comments are due on or before 5:00 p.m. Eastern Time June 18, 2026.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior

registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at 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. All filings must clearly identify the project name and docket number on the first page: Halifax Hydroelectric Project (P-9028-012).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

l. The Halifax Hydroelectric Project consists of the following existing facilities: (1) a 682-foot-long and 36-foot-high dam, with a 301-foot-long concrete spillway (consisting of a 24-foot-long fixed weir, twelve 3-foot-wide piers, eleven 20-foot-wide gated bays, and a 21-foot-long fixed weir), a 73-foot-8-inch-long integral powerhouse and intake structure, and a 307-foot-8-inch-long non-overflow structure (consisting of a 57-foot-6-inch-long concrete gravity wall, 203-foot-2-inch-long sheet pile cells with earthfill, and a 47-foot-long earthfill section); (2) an approximately 374-acre impoundment with a gross storage capacity of 3,510 acre-feet at a normal water surface elevation of 351.3 feet mean sea level (MSL);¹ (3) two 455-kilowatt (kW) turbine-generator units and a 875-kW turbine-generator unit for a total installed capacity of 1,785 kW; (4) a 486-foot-long, 4.16-kilovolt (kV) generator lead connecting to a 4.16/13.2-kV transformer, and a 26-foot-long, 13.2-kV transmission line connecting to the

local distribution system; and (5) appurtenant facilities.

The Halifax Project operates in a run-of-river mode with a continuous minimum flow of 5 cubic feet per second (cfs), or inflow, whichever is less. There is minimal to no available usable storage behind the dam and if river flow is less than 135 cfs, all water is spilled over the dam. The project is typically operated remotely in automatic control mode. Banister Hydro is not proposing any new project facilities or changes to the operation of the project.

From 2019 to 2023, average annual generation at the Halifax Project was 2,403 megawatt-hours.

m. A copy of the application can be viewed on the Commission's website at (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document (P-9028). For assistance, contact FERC Online Support (see item j above).

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding in accordance with 18 CFR 4.34(b) and 385.2010.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595, or OPP@ferc.gov.

You may also register online at <https://ferconline.ferc.gov/FEROnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. The license applicant must file the following on or before 5:00 p.m. Eastern Time May 4, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying

¹ In a revised Exhibit A filed May 22, 2025, Banister Hydro states that elevation data expressed as MSL are equal to that of the National Geodetic Vertical Datum of 1929 at the Halifax Project.

agency received the request; or (3) evidence of waiver of water quality certification.

o. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on April 6, 2026.

(Authority: 18 CFR 2.1)

Dated: March 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-04662 Filed 3-9-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2025-0067; FRL-12475-12-OCSPP]

Certain New Chemicals; Receipt and Status Information for September–December 2025

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency's receipt of new chemical submissions under the Toxic Substances Control Act (TSCA), including information about the receipt of a Premanufacture Notice (PMN), Significant New Use Notice (SNUN), Microbial Commercial Activity Notice (MCAN), and an amendment to a previously submitted notice; test information; a biotechnology exemption application; an application for a test marketing exemption (TME); and a notice of commencement of manufacture (defined by statute to include import) (NOC) for a new chemical substance. This document also provides a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review. EPA is hereby providing notice of receipt of this information, as required by TSCA, and an opportunity to comment. This document covers new chemical submissions that have passed an initial screening and, for PMNs, SNUNs and MCANs, were determined to be complete, during the period from 09/29/2025 to 12/31/2025.

DATES: Comments must be received on or before April 9, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2025-0067 and the specific case number provided in this document for the chemical substance related to your comment,

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 on and visiting the docket, along with more information about dockets generally, are available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information: Jim Rahai, Office of Chemical Safety and Pollution Prevention (OCSPP-OMCO-RISD), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; telephone number: (202) 564-8593; email address: rahai.jim@epa.gov.

For general information: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@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 is publishing this document in the **Federal Register** as required by sections 5 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, and corresponding EPA regulations.

Under TSCA, a chemical substance may be either an "existing" chemical substance or a "new" chemical substance, see <https://www.epa.gov/chemicals-under-tsca>. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a "new chemical substance," while a chemical substance that is listed on the TSCA Inventory is classified as an "existing chemical substance." See TSCA section 3(2) and (11). For more information about the TSCA Inventory, see <https://www.epa.gov/tsca-inventory>.

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the new

chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture a new chemical substance, or manufacture or process a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for "test marketing" purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical substances will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME.

Premanufacture notification procedures for review of certain new microbial products of biotechnology are established in 40 CFR part 725. These pertain to MCANs and biotechnology exemptions, including TSCA experimental release applications (TERAs), TMEs for microorganisms, and Tier I and Tier II exemptions.

C. What action is the Agency taking?

This document provides notice of receipt and status reports for the covered period and certain submissions under TSCA section 5 and provides an opportunity to comment on this information. The Agency is providing information about the receipt of PMNs, SNUNs, MCANs, and amendments to a previously submitted notice; test information; biotechnology exemption applications under 40 CFR part 725; TME applications; NOCs for new chemical substances; and a periodic status report on chemical substances that are currently under EPA review or have recently concluded review.

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 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 parts 2 and 703.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Background

A. What information is being provided in this document?

The tables in this document provide the following information on the TSCA section 5 submissions received by EPA during this period and determined to be completely consistent with 40 CFR 720.70(a).

- **Case number.** The EPA number assigned to the TSCA section 5 submissions. Please note that a case number may be listed more than once in the table when the submission involves a subsequent amendment.

- **Chemical substance.** Name of the chemical substance, or generic name if the specific name is claimed as CBI.

- **Manufacturer.** Name of the submitting manufacturer, to the extent that such information is not subject to a CBI claim. The term “manufacturer” is defined by statute to include importer.

- **Use(s).** Potential uses identified by the manufacturer.

- **Received.** Date the submission was received by EPA.

- **Commencement.** Date of commencement provided by the submitter in the NOC.

- **Test information.** For test information received, the type of test information submitted to EPA is based on the attachment type and subtype data selected by the submitter.

B. What do the acronyms mean that are used in the tables?

As used in each of the tables, the following explanations apply:

- (S) indicates that the information in the table is the specific information provided by the submitter.

- (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

C. How can I access other information about TSCA section 5 submissions?

EPA provides information on its website about cases reviewed under

TSCA section 5, including the PMNs, SNUNs, MCANs, and exemption applications received; the date of receipt; the final EPA determination on the submission; and the effective date of EPA's determination. See <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notice>. In addition, information EPA receives about chemical substances under TSCA, including non-CBI new chemical submissions, can be accessed in ChemView at <https://chemview.epa.gov/chemview>.

III. Receipt Reports

Table 1 provides non-CBI information for the PMNs, SNUNs and MCANs received by EPA that have passed an initial screening and determined to be complete consistent with 40 CFR 720.70(a) during this period.

TABLE 1—PMN/SNUN/MCANs RECEIVED AND UNDER REVIEW

Case No.	Received date	Manufacturer	Use	Chemical substance
J-25-0004 ..	12/02/2025	CBI	(G) Manufacture of an alcohol	(G) Modified Yeast, with chromosomal modifications to improve fermentation characteristics.
J-25-0005 ..	12/02/2025	CBI	(G) Manufacture of an alcohol	(G) Modified Yeast, with chromosomal modifications to improve fermentation characteristics.
J-25-0015 ..	09/29/2025	Danisco US, Inc	(G) Production of a chemical substance	(G) Genetically modified microorganisms for the production of a chemical substance.
J-25-0015 ..	12/01/2025	Danisco US, Inc	(G) Production of a chemical substance	(G) Genetically modified microorganisms for the production of a chemical substance.
P-23-0140	12/17/2025	CBI	(G) Additive for consumer and commercial products.	(G) Polysaccharide, (hydroxytrialkylammonio)alkyl ether, chloride.
P-24-0007	12/11/2025	Kenrich Petrochemicals, Inc.	(S) Use as a dispersant for powders, all forms KR PTOA, CAPOW KR PTOA; Adhesion promoter in adhesives and sealants.	(S) Titanium branched and linear C16-18 and C18-unsatd. fatty acids iso-Pr alc. complexes.
P-24-0011	11/14/2025	High Plains Bio-energy LLC.	(S) Used as a component of fuels (e.g., gasoline, E85) to increase the vapor pressure; Chemical intermediate use (e.g., petrochemical feedstock).	(S) Alkanes, C5-11-branched and linear.
P-24-0034	11/06/2025	Barentz North America, LLC.	(S) Non-reactive processing aid	(S) 2,5,7,10-Tetraoxaundecane, 4,8-dimethyl-.
P-24-0158	12/19/2025	CBI	(G) Consumer use null: Resin for packaging	(G) Polyhydroxyalkanoate.
P-24-0158	12/31/2025	CBI	(G) Consumer use null: Resin for packaging	(G) Polyhydroxyalkanoate.
P-24-0179	12/31/2025	CBI	(G) Component in batteries	(G) Aluminum- and metal-doped cobalt metal nickel oxide.
P-24-0180	12/31/2025	CBI	(G) Component in batteries	(G) Aluminum- and metal- and metal-doped cobalt metal nickel oxide.
P-24-0181	12/31/2025	CBI	(G) Component in batteries	(G) Metal- and metal-doped cobalt metal nickel oxide.
P-24-0195	12/12/2025	CBI	(G) Heat transfer fluid, Dielectric testing	(G) Trimers of hexafluoropropene.
P-25-0023	12/17/2025	CBI	(G) Mixed metal oxide for batteries	(G) Cobalt lithium manganese nickel oxide, metals-modified.
P-25-0023	11/14/2025	CBI	(G) Mixed metal oxide for batteries	(G) Cobalt lithium manganese nickel oxide, metals-modified.
P-25-0055	12/12/2025	Motiva Enterprises, LLC.	(G) Additive used in industrial and commercial applications.	(G) Hydrocarbon, processed.
P-25-0072	12/12/2025	CBI	(G) Heat transfer fluid, Dielectric testing	(G) 1-Propene, polyfluoro-, trimer, epoxidized.
P-25-0078	12/15/2025	Phillips 66 Corporate	(G) transportation fuel, Feedstock	(G) Hydrocarbons, processed.

TABLE 1—PMN/SNUN/MCANS RECEIVED AND UNDER REVIEW—Continued

Case No.	Received date	Manufacturer	Use	Chemical substance
P-25-0108	10/31/2025	Nichia America Corporation.	(S) Magnetic component in electric motor for automotive/electric pump for automotive.	(G) Mixed metal nitride.
P-25-0108	11/10/2025	Nichia America Corporation.	(S) Magnetic component in electric motor for automotive/electric pump for automotive.	(G) Mixed metal nitride.
P-25-0118	12/11/2025	CBI	(G) Liquid or solid formulation of biocatalyst used in a variety of products.	(G) Neutral Protease.
P-25-0123	12/24/2025	CBI	(G) Ink component; ingredient in ink	(G) Butanamide, 2,2'-[(dihalo[1,1'-biphenyl]-4,4'-diyl) bis(2,1-diazenediyl)] bis [3-oxo, N, N'-bis (substituted heteropolycyclic and alkyl carbomonocyclic) derivs.
P-25-0125	12/24/2025	CBI	(G) Substance for the use in manufacturing of battery components.	(G) Cobalt lithium manganese nickel oxide, metals.
P-25-0144	11/12/2025	CBI	(G) Substance for the use in manufacturing of battery components.	(G) Cobalt lithium manganese nickel oxide, metals.
P-25-0145	11/12/2025	CBI	(G) Substance for the use in manufacturing of battery components.	(G) Cobalt lithium manganese nickel oxide, metals.
P-25-0146	11/12/2025	CBI	(G) Substance for the use in manufacturing of battery components.	(G) Cobalt lithium manganese nickel oxide, metals.
P-25-0153	11/03/2025	Schimmer & Schwarz	(S) General industrial use of lubricants and greases in vehicles or machinery. Includes filling and draining of containers and enclosed machinery (including engines), Base oil for use in thermal heat transfer, dielectric immersion fluid formulations for use in high-performance data center cooling applications.	(G) Mixture of Fatty acids esters with isomerized alkane derivs.
P-25-0154	11/03/2025	Schimmer & Schwarz	(S) General industrial use of lubricants and greases in vehicles or machinery. Includes filling and draining of containers and enclosed machinery (including engines). Base oil for use in thermal heat transfer, dielectric immersion fluid formulations for use in high-performance data center cooling applications.	(G) Mixture of fatty acids esters with isomerized alkane derivs.
P-25-0155	11/03/2025	Schimmer & Schwarz	(S) General industrial use of lubricants and greases in vehicles or machinery. Includes filling and draining of containers and enclosed machinery (including engines). Base oil for use in thermal heat transfer, dielectric immersion fluid formulations for use in high-performance data center cooling applications.	(G) Mixture of Fatty acids esters with isomerized alkane derivs.
P-26-0003	11/13/2025	BEDOUKIAN RESEARCH INC.	(S) Site-limited intermediate	(G) 3-Acetoxyalkyltriarylphosphonium bromide.
P-26-0004	11/13/2025	BEDOUKIAN RESEARCH INC.	(S) Site-limited intermediate	(G) 8-Acetoxyalkyltriarylphosphonium bromide.
P-26-0005	11/13/2025	BEDOUKIAN RESEARCH INC.	(S) Site-limited intermediate	(G) 9-Acetoxyalkyltriarylphosphonium bromide.
P-26-0010.	11/03/2025	CBI	(S) Chemical intermediate	(G) Ditridecylamine, isomer mixture.
P-26-0010	11/07/2025	CBI	(S) Chemical intermediate	(G) Ditridecylamine, isomer mixture.
P-26-0020	11/06/2025	AGC CHEMICALS AMERICAS, INC.	(G) Raw material for resin synthesis	(G) Alkyloxirane, polymer with alkenyl [ary isocyanate], alkyloxirane polymer with oxirane ether with alkylpolyol and oxirane.
P-26-0022	11/13/2025	CBI	(G) Component in batteries	(G) Cobalt metal metal nickel oxide, metal- and metal- and metal-doped.
P-26-0023	12/18/2025	H.B. Fuller Company	(S) Wall Panel Adhesive	(G) Glycidyl Ether polymer with 1-(chloromethyl) oxirane, reaction products with 2-[(C 12-14-alkyloxy) methyl] oxirane and polysulfide.
P-26-0028	12/02/2025	Eastman Chemical Company, Inc.	(G) Chemical intermediate	(G) Depolymerized waste plastics.
P-26-0029	12/02/2025	CBI	(G) Photoacid generator use at customer; (S) Export formulated product for use outside of US.	(G) Aromatic sulfonium tricyclo salt with dicycloalkyl carbomonocycle hetero acid.
P-26-0030	12/04/2025	CBI	(G) Chemical intermediate for polyurethane industry.	(G) Waste plastics, poly (ethylene terephthalate), depolymd. with glycols.
P-26-0031	12/05/2025	CBI	(G) Component of liquid detergent	(G) Alkanoic acid, sulfo-, mixed alkyl esters, sodium salts.

TABLE 1—PMN/SNUN/MCANS RECEIVED AND UNDER REVIEW—Continued

Case No.	Received date	Manufacturer	Use	Chemical substance
P-26-0033	12/08/2025	CBI	(G) Component in inks	(G) Fatty acids, dimers, polymers with alkenoic acid, polycarboxylic acid, alkenoic acid and poly(hydroxyalkyl)-heterocyclic-polyone.
P-26-0034	12/08/2025	CBI	(G) Component in inks	(G) Fatty acids, dimers, polymers with alkenoic acid, polycarboxylic acid, oxypoly(methylene)] bis[alkyl-alkanediol] and polycyclic anhydride.
P-26-0035	12/17/2025	CBI	(S) Monomer (building block of a polymer) in architectural coatings.	(S) Poly(oxy-1,2-ethanediyl), -(2-methyl-1-oxo-2-propenyl) --(tridecyloxy)-, branched.
P-26-0040	12/18/2025	CBI	(G) Commodity chemical manufacture	(G) Alkyl fatty acids reaction products with amino hydroxyalkyl amine.
P-26-0042	12/22/2025	CBI	(G) Contained use for microlithography for electronic device manufacturing.	(G) Sulfonium, bis(difluorosubstitute daromachydrocarbon) (halosubstitutedaromachydrocarbon)-, dihalosubstitutedal koxyaromachydrocarboncarboxylate.
P-26-0043	12/30/2025	CBI	(G) Plastic resin	(G) Alkanoic acid, substituted, polymer with substituted alkanolic acid, from fermentation of fermentable sugars.
P-26-0044	12/30/2025	CBI	(G) Plastic Resin	(G) Alkanoic acid, substituted, polymer with substituted alkanolic acid, from fermentation of fermentable oils.
P-26-0045	12/30/2025	CBI	(G) Photoacid generator use at customer; (S) Export formulated product for use outside of US.	(G) Aromatic carboxylic acid, Halogenated heteromonocycle ester, polymer with: Haloaromatic iodonium tricyclo salt with polyhaloalkyl carbomonocycle hetero acid, modified.
SN-21-0011	11/10/2025	CBI	(G) Solvent	(S) 2-Propanol, 1-[bis(2-hydroxyethyl) amino]-.
SN-23-0024	12/01/2025	CBI	(G) Component in batteries	(S) Phosphoric acid, iron (2+) lithium salt (1:1:1).
SN-25-0006	12/16/2025	CBI	(S) Substance for use in the manufacture of battery cathodes.	(S) Phosphoric acid, iron (2+) lithium salt (1:1:1).
SN-26-0001	10/31/2025	Enchem America Inc	(G) For use in battery production	(S) Phenol, 4,4'-[1-[4-[1-(4-hydroxyphenyl)-1-methylethyl] phenyl] ethylidene] bis-.
SN-26-0002	11/26/2025	CBI	(G) Substance for use in the manufacture of batteries.	(S) Phosphoric acid, iron (2+) lithium salt (1:1:1).
SN-26-0003	12/15/2025	CBI	(S) Substance for use in the manufacture of battery cathodes.	(S) Phosphoric acid, iron (2+) lithium salt (1:1:1).
SN-26-0004	12/19/2025	CBI	(G) Electrolyte additive	(G) Cyclic alkylene sulfate.

In Table 2. of this unit, EPA provides the following information (to the extent that such information is not subject to a CBI claim) on the TMEs and/or Biotech Exemptions received by EPA during this period: The EPA case

number assigned to the TME and/or Biotech Exemption, the submission document type (initial or amended), the version number, the date the TME and/or Biotech Exemption was received by EPA, the submitting manufacturer (*i.e.*,

domestic producer or importer), the potential uses identified by the manufacturer in the TME and/or Biotech Exemption, and the chemical substance identity.

TABLE 2—TMEs AND BIOTECH EXEMPTIONS RECEIVED FROM 12/01/2025 TO 12/31/2025

Case No.	Received date	Manufacturer	Use	Chemical substance
T-25-0001	10/31/2025	CBI	(S) Cleaning solvent for closed electrolyte mixing/blending process; (G) Battery electrolyte ingredient, contained use.	(G) N-halo sulfonyl-N, N-dialkylamine.
T-25-0001	12/02/2025	CBI	(S) Cleaning solvent for closed electrolyte mixing/blending process; (G) Battery electrolyte ingredient, contained use.	(G) N-halo sulfonyl-N, N-dialkylamine.

Table 3 provides non-CBI information on the NOCs received by EPA that have

passed an initial screening during this period.

TABLE 3—NOCs RECEIVED AND UNDER REVIEW

Case No.	Received date	Commencement date	Chemical substance
P-18-0027	11/22/2025	10/28/2025	(G) 2-Propenoic acid, 2-methyl-, alkylamino ester, polymer with alpha-(2-methyl-1-oxo-2-propen-1-yl)-omega-methoxypoly(oxy-1,2-ethanediyl).
P-24-0016	11/04/2025	11/03/2025	(S) 2-propanamine, N, N'-(oxydi-2,1-ethanediyl) bis [N-methyl-.
P-24-0099	11/19/2025	10/24/2025	(G) Saturated and unsaturated hydrocarbon waxes, oxidized, polymers with alkenoic acid, alkanedioic acid, substituted carbomonocycle, alkyl alkenoate, alkenyl substituted substituted heteromonocycle, alkylene glycol, alkyl alkenoate, alkenedioic acid, polyalkylene glycol ether with substituted carbomonocycle (alkylidene)bis-, polyalkylene glycol ether with substituted carbomonocycle (alkylidene)bis-, alkanioic acid, alkyl alkenoate, disubstituted carbomonocycle, substituted heteropolycycle, alkyl peroxide-initiated.
P-24-0102	12/29/2025	10/02/2025	(G) Polyester polymer with polybutylene glycol and 1,1'-methylenebis[4-isocyanatobenzene].
P-24-0103	12/29/2025	10/05/2025	(G) Polyester polymer with polybutylene glycol and 1,1'-methylenebis[isocyanatobenzene].
P-24-0139	12/05/2025	11/15/2025	(G) Maleic acid, dibutyl ester, reaction products with isophoronediamine-5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane-trimethylolpropane triacrylate polymer, di-bu maleate and di-et maleate.
P-24-0145	12/05/2025	11/15/2025	(G) 2-butenedioic acid (2z)-, 1,4-bis(2-ethylhexyl) ester, reaction products with 5-amino-1,3,3-trimethylcyclohexanemethanamine-hexamethylene diacrylate-isophorone diisocyanate polymer and di-bu maleate.
P-25-0097	11/18/2025	09/15/2025	(G) Aromatic sulfonium tricyclo salt with carbopolycycle arylhetero acid.
P-25-0097	12/05/2025	09/15/2025	(G) Aromatic sulfonium tricyclo salt with Carbopol cycloalkyl ester polysubstitutedarylhetero-acid.
P-99-0950	11/19/2025	11/13/2025	(G) Isocyanate terminated polyurethane resin.

Table 4 provides non-CBI information received by EPA that has passed an initial screening during this period.

TABLE 4—TEST INFORMATION RECEIVED

Case No.	Received date	Type of test information	Chemical substance
P-09-0245	11/06/2025	Analytical Summary	(G) Partially fluorinated alcohol, reaction products with phosphorus oxide (P205), ammonium salts.
P-09-0246	11/06/2025	Analytical Summary	(G) Partially fluorinated alcohol, reaction products with phosphorus oxide (P205).
P-14-0712	12/29/2025	Dioxin Report	(S) Waste plastics, pyrolyzed, C5-55 fraction.
P-16-0543	11/14/2025	Industrial Hygiene Exposure Assessment Report	(G) Halogenophosphoric acid metal salt.
P-16-0543	12/01/2025	Exposure monitoring data	(G) Halogenophosphoric acid metal salt.
SN-22-0002; P-14-0627.	12/04/2025	Extended One-Generation Reproductive Toxicity Study	(S) 2-Pyrrolidinone, 1-butyl; (S) 1-Butylpyrrolidin-2-one.
P-23-0084	11/19/2025	Skin Sensitization Assays (OECD 442C, 442D and 442E).	(G) Amides, vegetable oil, hydroxylated amine.
P-23-0085	11/19/2025	Skin Sensitization Assays (OECD 442C, 442D and 442E).	(G) Amides, soya, hydroxylated amine.
P-23-0192	11/19/2025	Skin Sensitization Assays (OECD 442C, 442D and 442E).	(G) Amides, fatty acid, N, N-bis(2-hydroxypropyl).
P-24-0092	11/19/2025	Skin Sensitization Assays (OECD 442C, 442D and 442E).	(G) Fatty acid reaction products with diisopropanolamine.

IV. Status Reports

Information about the TSCA section 5 PMNs, SNUNs, MCANs, and exemption applications received, including the date of receipt, the status of EPA's review, the final EPA determination, and the effective date of EPA's determination, is available online at: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notice>.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 5, 2026.

Mary Elissa Reaves,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2026-04651 Filed 3-9-26; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Meeting for the 2026–2027 EXIM Advisory and Sub-Saharan Africa Advisory Committees

Time and Date: Friday, March 20th, 2026 from 1:00 p.m.–2:00 p.m. ET.

Place: Microsoft Teams: The joint meeting will be held virtually for the committees, EXIM's Board of Directors, support staff, and all other participants.

Registration and Public Comment: Virtual Public Participation: The meeting will be open to public participation virtually and time will be allotted for questions or comments submitted online. Members of the public may also file written statements before or after the meeting to advisory@exim.gov.

Interested parties may register for the meeting at: <https://events.teams.microsoft.com/event/ab6e7959-bcad->

4345-b07f-2c5a6e683ef9@b953013c-
c791-4d32-996f-518390854527.

Matters To Be Considered: Discussion of EXIM policies and programs designed to support the expansion of financing support for U.S. manufactured goods and services.

Contact Person for More Information: For more information about applying for membership to any of the committees, please contact India Walker at advisory@exim.gov.

Authority: The Committee was established by the Bank as directed by Section 2(b)(9) of the Export Import Bank Act of 1945. These Advisory Committees are chartered in accordance with the Federal Advisory Committee Act ("FACA"), 5 U.S.C. App.

India Walker,

Deputy Vice President, Office of External Affairs.

[FR Doc. 2026-04607 Filed 3-9-26; 8:45 am]

BILLING CODE 6690-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of General Counsel at (202)-523-5740 or GeneralCounsel@fmc.gov.

Agreement No.: 201349-007.

Agreement Name: World Shipping Council Agreement.

Parties: COSCO Shipping Lines Co., Ltd., Orient Overseas Container Line Ltd., and OOCL (Europe) Limited (acting as a single party); CMA CGM S.A., APL Co. Pte. Ltd., American President Lines, LLC and ANL Singapore Pte Ltd. (acting as a single party); Crowley Caribbean Services, LLC and Crowley Latin America Services, LLC (acting as a single party); Emirates Shipping Line FZE; Evergreen Marine Corporation (Taiwan) Ltd.; Hapag-Lloyd AG; Höegh Autoliners AS; HMM Company Limited; Independent

Container Line, Ltd.; Kawasaki Kisen Kaisha Ltd., Maersk A/S and Hamburg Sud (acting as a single party); Matson Navigation Company, Inc.; MSC Mediterranean Shipping Company SA; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha; Ocean Network Express Pte. Ltd.; Swire Shipping, Pte. Ltd.; Wallenius Wilhelmsen Ocean AS; Wan Hai Lines Ltd. and Wan Hai Lines (Singapore) Pte Ltd. (acting as a single party); Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Robert Magovern, Cozen O'Connor.

Synopsis: The amendment revises article 5.1(e) of the Agreement, which generally provides for the development of tools to enhance cargo screening efforts by the WSC members to reduce safety risks to crews, vessels, cargo, and the marine environment resulting from undeclared or non-compliant dangerous goods. The amendment also authorizes the WSC members to create and maintain databases of incidents relating to the identification of undeclared or otherwise non-compliant goods.

Proposed Effective Date: 4/13/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/34503>.

Dated: March 6, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026-04695 Filed 3-9-26; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, March 26, 2026.

PLACE: The meeting will be held via remote means and/or in the Richard V. Backley Hearing Room, Room 511, 1331 Pennsylvania Avenue NW, Suite 504 North, Washington, DC 20004.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission will conduct a meeting closed to the public to consider: *GMS Mine Repair & Maintenance, Inc.*, Docket No. VA 2023-0021 (Issues include: (1) whether the Secretary of Labor is collaterally estopped from enforcing a safeguard notice; and (2) whether the Judge erred in concluding that the operator violated a safeguard notice).

Commissioners will attend the meeting. Commission staff members who provide technological support and other Commission staff may also be

present as necessary. The Commissioners have unanimously voted to close the meeting. This meeting is closed to the public pursuant to 5 U.S.C. 552b(c)(10) on the basis of the Commission's consideration or disposition of a "particular case of formal agency adjudication."

CONTACT PERSON FOR MORE INFORMATION:

Rory P. Smith (202) 525-8649/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Phone Number for Listening to Meeting: 1-(866) 236-7472. **Passcode:** 678-100.

Authority: 5 U.S.C. 552b.

Dated: March 6, 2026.

Rory P. Smith,

Attorney-Advisor.

[FR Doc. 2026-04705 Filed 3-6-26; 4:15 pm]

BILLING CODE 6735-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the

Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Deputy Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 25, 2026.

A. *Federal Reserve Bank of Richmond* (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to

Comments.applications@rich.frb.org:

1. *Molly D. McEvoy, Richmond, Virginia*; to join the Monroe Family Control Group, a group acting in concert, to acquire control of voting shares of Chesapeake Financial Shares, Inc. (Chesapeake), by becoming a trustee of the Doug Monroe III GRAT Sub-Trust and Mark Monroe GRAT Sub-Trust, which own Chesapeake, and thereby indirectly own Chesapeake Bank, both of Kilmarnock, Virginia.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–04679 Filed 3–9–26; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3477–FN]

Medicare and Medicaid Programs: Application From the American Association for Accreditation of Ambulatory Surgery Facilities for Continued CMS-Approval of its Rural Health Clinic (RHC) Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the American Association for Accreditation of Ambulatory Surgery Facilities, DBA QUAD A, for continued recognition as a national accrediting organization for rural health clinics that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is applicable March 23, 2026 to March 23, 2032.

FOR FURTHER INFORMATION CONTACT: Caecilia Andrews 410–786–2190.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a rural health clinic (RHC) provided certain requirements are met. Sections 1861(aa) and 1905(l)(1) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as an RHC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the general provisions for survey and certification of facilities are at 42 CFR part 488, subpart A. The regulations at 42 CFR part 491, subpart A specify the conditions that an RHC must meet to participate in the Medicare program, and 42 CFR 405, subpart X sets forth the scope of covered services and the conditions for Medicare payment for RHCs.

Generally, to enter into an agreement with Medicare, an RHC must first be certified by a State survey agency as complying with the conditions or requirements set forth in 42 CFR part 491. Thereafter, the RHC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by State agencies. Section 1865(a)(1)(A) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we must deem that provider entity as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national AO applying for CMS approval of its accreditation program under 42 CFR part 488, subpart A must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at § 488.5.

The American Association for Accreditation of Ambulatory Surgery Facilities (DBA “QUAD A”) has requested continued approval by CMS for its RHC program. CMS has reviewed QUAD A's application as described later in this notice and is hereby announcing

QUAD A's term of approval for a period of 6 years.

II. Application Approval Process

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of a national AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

III. Provisions of the Proposed Notice

On December 8, 2025, CMS published a proposed notice in the **Federal Register** (90 FR 56773), announcing QUAD A's request for continued CMS-approval of its Medicare RHC accreditation program. CMS approves or denies an AO's application based on an assessment of the factors listed in section II. of this final notice and also later in this section, which may include, but is not limited to, a review of the information required to be submitted by the AO, interviews with AO staff, an evaluation of the AO's survey process and findings, or other activities necessary to determine that the AO meets the requirements set forth at §§ 488.4 and 488.5. Under Section 1865(a)(2) of the Act and in our regulations at § 488.5 and § 488.8(h), we reviewed QUAD A's application in accordance with the criteria specified by our regulations, which included an assessment of the AO's:

- (1) Corporate policies; (2) financial viability; (3) ability to investigate and respond appropriately to allegations of violations of the Medicare program requirements; and (4) survey review and decision-making process for the purposes of deemed status.

- Survey process to confirm that it is comparable to State agencies' survey process and the AO can adequately assess whether a provider or supplier, under the AO's deeming program, meets

or exceeds the Medicare program requirements.

- Composition of the survey team.
- Procedures for monitoring deemed RHCs it has found to be out of compliance with the AO's program requirements.

- Ability to report deficiencies to the surveyed RHC and respond to the RHC's plan of correction in a timely manner.

- Verification of the AO's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the December 8, 2025 proposed notice solicited public comments regarding whether QUAD A's requirements met or exceeded the Medicare Conditions for Certification (CfCs) for RHCs. We received one comment.

In general, the commenter was in support of continued recognition of QUAD A as a national accrediting organization for RHCs, provided CMS verifies that QUAD A has established their accreditation requirements, fully trained its surveyors, and identified deficiencies in a manner consistent with the actual structures and operations of RHCs that serve rural communities. This includes those referred to by the commenter as "Indigenous" but are commonly known as "American Indians and Alaska Natives".

We appreciate the commenter's input and have considered it when making our decision. As outlined in the proposed notice, CMS conducts a thorough review of any AO applying for initial or continued recognition as a CMS-approved national AO. This includes review of standards to ensure they meet or exceed the CMS conditions, training and education of surveyors, as well as comparability of survey processes to those of the State Survey Agencies.

V. Provisions of the Final Notice

A. Differences Between QUAD A's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared QUAD A's RHC accreditation requirements and survey process with the Medicare conditions set forth at 42 CFR part 491, subpart A, the survey and certification process requirements of parts 488 and 489, and survey process as outlined in the State Operations Manual (SOM). Our review

and evaluation of QUAD A's RHC application, which was conducted as described in section III. of this final notice, yielded the following area where, as of the date of this notice, QUAD A has completed revising its standards and certification processes to—

- Revise surveyor guidance and training to provide additional clarity on its procedures to raise standard-level deficiencies to condition-level deficiencies, consistent with the regulation at § 488.26(b) and the State Operations Manual, Appendix G, Task 4.

B. Term of Approval

Based on our review and observations described in section III. and section V. of this final notice, we find that QUAD A provides reasonable assurance that accredited entities would meet or exceed the applicable Medicare conditions and we approve QUAD A as a national accreditation organization for RHCs that request participation in the Medicare program. The decision announced in this final notice is effective March 23, 2026, to March 23, 2032 (6 years).

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of CMS, Mehmet Oz, having reviewed and approved this document, authorizes Vanessa Garcia, who is the **Federal Register** Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Center for Medicare & Medicaid Services.

[FR Doc. 2026-04595 Filed 3-9-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-4216-PN]

Medicare Program; Request for Renewal of Deeming Authority of the National Committee for Quality Assurance (NCQA) for Medicare Advantage Health Maintenance Organizations and Preferred Provider Organizations

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice with request for comment.

SUMMARY: This notice announces that the Centers for Medicare & Medicaid Services is considering granting approval of the National Committee for Quality Assurance's renewal application for Medicare Advantage "deeming authority" of Health Maintenance Organizations and Preferred Provider Organizations to continue participation in the Medicare program.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than April 9, 2026.

ADDRESSES: In commenting, refer to file code CMS-4216-PN.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-4216-PN, P.O. Box 8010 Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-4216-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

FOR FURTHER INFORMATION CONTACT:

Dawn Johnson Scott, (410) 786-3159 or Katie Schenck, (410) 786-0628.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services through a Medicare Advantage (MA) organization that contracts with the Center for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met for a Medicare Advantage organization (MAO) to enter into a contract with CMS are located at 42 CFR 422.503(b). These regulations implement Part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MAO must provide and the requirements that the organization must meet to enter into an MA contract with CMS. Other relevant provisions of the Act include Parts A and B of Title XVIII and Parts A and E of Title XI of the Act pertaining to the provision of services by Medicare-certified providers and suppliers. Generally, for an entity to be an MAO, the organization must be licensed by the state as a risk bearing organization, as set forth in 42 CFR 422.400.

As a method of assuring compliance with certain Medicare requirements, an MAO may choose to become accredited by a CMS-approved accreditation organization (AO). By virtue of its accreditation by a CMS-approved AO, the MAO may be “deemed” compliant in one or more requirements set forth in section 1852(e)(4)(B) of the Act. For CMS to recognize an AO’s accreditation program as establishing an MA plan’s compliance with our requirements, the AO must, as set forth in § 422.157(a)(1), prove to CMS that their standards are at least as stringent as Medicare requirements for MAOs. MAOs that are

licensed as health maintenance organizations (HMOs) or preferred provider organizations (PPOs) and are accredited by an approved AO may receive, at their request, “deemed” status for CMS requirements for the deemable areas. These areas include Quality Improvement, Anti-Discrimination, Confidentiality and Accuracy of Enrollee Records, Information on Advance Directives, and Provider Participation Rules.

At this time, CMS does not recognize accreditation of the following areas: Access to Services set out in § 422.156(b)(3) or the Part D areas of review set out at § 423.165(b) as part of the MA deeming program. Accreditation organizations that apply for MA deeming authority are generally recognized by the health care industry as entities that accredit HMOs and PPOs. As we specify at § 422.157(b)(2)(ii), the term for which an AO may be approved by CMS may not exceed 6 years. For continuing approval, the AO must apply to CMS to renew their deeming authority for a subsequent approval period.

The National Committee for Quality Assurance (NCQA) was previously approved by CMS as an AO for MA deeming of HMOs and PPOs for a term from December 30, 2020, to December 30, 2026. On December 19, 2025, NCQA submitted its initial application to renew its deeming authority, including materials requested by CMS that included information intended to address the requirements set out in regulations at § 422.158(a) and (b) that are prerequisites for receiving approval of its accreditation program from CMS.

II. Provisions of the Proposed Notice

This proposed notice notifies the public of NCQA’s request to renew its MA deeming authority for HMOs and PPOs. The renewal application was submitted on December 19, 2025, and NCQA submitted all the necessary materials (including its standards and monitoring protocol) as part of their application; and CMS has determined the application is complete. Under section 1852(e)(4) of the Act and § 422.158 our review and evaluation of NCQA will be conducted as discussed below.

A. Components of the Review Process

The review of NCQA’s renewal application for approval of MA deeming authority includes, but is not limited to, the following components:

- The types of MA plans that it would review as part of its accreditation process.

- A detailed comparison of NCQA’s accreditation requirements and standards with the Medicare requirements (for example, a crosswalk) in the following five deemable areas: Quality Improvement, Anti-Discrimination, Confidentiality and Accuracy of Enrollee Records, Information on Advance Directives, and Provider Participation Rules.

- Detailed information about the organization’s survey process, including—

++ Frequency of surveys and whether surveys are announced or unannounced.

++ Copies of survey forms, and guidelines and instructions to surveyors.

++ Descriptions of—

—The survey review process and the accreditation status decision making process.

—The procedures used to notify accredited MAOs of deficiencies and to monitor the correction of those deficiencies; and

—The procedures used to enforce compliance with accreditation requirements.

- Detailed information about the individuals who perform surveys for the AO, including—

++ The size and composition of accreditation survey teams for each type of plan reviewed as part of the accreditation process;

++ The education and experience requirements surveyors must meet;

++ The content and frequency of the in-service training provided to survey personnel;

++ The evaluation systems used to monitor the performance of individual surveyors and survey teams; and

++ The organization’s policies and practice for participation, in surveys or in the accreditation decision process, by an individual who is professionally or financially affiliated with the entity being surveyed.

- A description of the organization’s data management and analysis system for its surveys and accreditation decisions, including the kinds of reports, tables, and other displays generated by that system.

- A description of the organization’s procedures for responding to and investigating complaints against accredited organizations, including policies and procedures regarding coordination of these activities with appropriate licensing bodies and ombudsmen programs.

- A description of the organization’s policies and procedures for the withholding or removal of accreditation for failure to meet the AO’s standards or requirements, and other actions the

organization takes in response to noncompliance with its standards and requirements.

- A description of all types (for example, full, partial) and categories (for example, provisional, conditional, temporary) of accreditation offered by the organization, the duration of each type and category of accreditation and a statement identifying the types and categories that would serve as a basis for accreditation if CMS approves the AO.

- A list of all currently accredited MAOs and the type, category, and expiration date of the accreditation held by each of them.

- A list of all full and partial accreditation surveys scheduled to be performed by the AO.

- The name and address of each person with an ownership or control interest in the AO.

- CMS will also consider NCQA's past performance in the deeming program and results of recent deeming validation reviews or equivalency reviews conducted as part of continuing federal oversight of the deeming program under § 422.157(d).

B. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including a review of comments received as a result of this proposed notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation. Section 1852(e)(4)(C) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of a completed application to complete our survey activities and application review process. Within the 210-day period, we will publish an approval or denial of the application in the **Federal Register**.

III. Collection of Information Requirements

This document does not impose new or revised collection of information requirements or burden. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). With respect to the PRA and this section of the preamble, collection of information is defined under 5 CFR 1320.3(c) of the PRA's implementing regulations.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them

individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Mehmet Oz, having reviewed and approved this document, authorizes Vanessa Garcia, who is the **Federal Register Liaison**, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026-04593 Filed 3-9-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10185]

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 May 11, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: _____/OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections**1. Type of Information Collection**

Request: Revision of a currently approved collection; **Title of Information Collection:** Medicare Part C and D Reporting Requirements; **Use:** Section 1857(e)(1) and Section 1860D–12(b)(3)(D) of the Social Security Act (the Act) provides broad authority for the Secretary to add terms to the contracts with Medicare Advantage Organizations (MAOs) and Part D sponsors, including terms that require the sponsor to provide the Secretary with information as the Secretary may find necessary and appropriate. Pursuant to our statutory authority, the Centers for Medicare & Medicaid Services (CMS) codified these information collection requirements for MAOs in regulation at 42 CFR 422.516 and for Part D sponsors in regulation at 42 CFR 423.514.

The data collected through the reporting requirements for MAOs and Part D sponsors are used by CMS and other stakeholders for oversight, monitoring, compliance, and performance evaluation. CMS staff use the data to monitor and hold organizations accountable, while academic researchers and governmental entities such as the Government Accountability Office (GAO) and the Office of Inspector General (OIG) have inquired about this information collection. Reported data may be used for CMS performance metrics such as the Medicare Part C and D Star Ratings and Display Measures, and analyzed for program oversight to ensure the availability, accessibility, and acceptability of sponsors' services. **Form Number:** CMS–10185 (OMB control number: 0938–0992); **Frequency:** Yearly; **Affected Public:** Business or other for-profits; **Number of Respondents:** 758; **Total Annual Responses:** 35,196; **Total**

Annual Hours: 88,504. (For policy questions regarding this collection contact Bindu Aryal at 410–786–6987 or bindu.aryal@cms.hhs.gov.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–04605 Filed 3–9–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****Submission for Office of Management and Budget Review; Title Central Authority Payment Service (New Collection)**

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for Public Comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration of Children and Families (ACF), U.S. Department of Health and Human Services, is requesting the Office of Management and Budget to approve a new information collection, Central Authority Payment Service (CAP). Participating state child support agencies (CSAs) and foreign authorities will use CAP to send or receive child support payments electronically.

DATES: *Comments due April 9, 2026.*

ADDRESSES: The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-0970-004. You can also obtain copies of the proposed collection

of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: OCSE is the federal agency that oversees the national child support enforcement program and is the U.S. Central Authority for international child support. OCSE is mandated to facilitate locating noncustodial parents, establishing paternity, establishing and enforcing support orders, modifying orders, and collecting and disbursing child support payments. It is also required to provide technical assistance and training to state CSAs to process and enforce national and international child support.

To help states eliminate the burden of sending child support payments through international Automated Clearing House, by wire, OCSE developed CAP, which is a centralized and secure hub for participating states to send international child support payments. After consolidating payments from states, CAP sends one payment to each foreign authority through established federal international electronic payment channels. Payments are converted to applicable currency and distributed by the foreign authority to the custodial parent in their country according to secure case and payment details provided through CAP. To participate, states and foreign authorities must enroll in the CAP service to transmit or receive payments.

Respondents: State CSAs and the foreign authorities.

Annual Burden Estimates: Based on the current enrollment status, OCSE anticipates 46 states and 13 foreign authorities to implement CAP or maintain their CAP contacts over the next three years.

Instrument	Number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
State Contact Form	46	1	0.08	3.68
Foreign Authority Contact Form	13	1	0.12	1.56
Estimated Annual Burden Hours:				5.24

Authority: 42 U.S.C. 652(n), 652(a)(7), and 659A(c)(3)

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–04594 Filed 3–9–26; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****[Docket No. FDA-2011-D-0611]****New and Revised Draft Q&As on Biosimilar Development and the Biologics Price Competition and Innovation Act; Draft Guidance for Industry; Availability****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a revised draft guidance for industry entitled “New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 4).” The question and answer (Q&A) format is intended to inform prospective applicants and facilitate the development of proposed biosimilar products and proposed interchangeable biosimilar products, as well as describe FDA’s proposed interpretation of certain statutory requirements related to the abbreviated licensure pathway for biological products added by the Biologics Price Competition and Innovation Act of 2009 (BPCI Act). This draft guidance revises and replaces the draft guidance for industry entitled “New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 3)” issued September 17, 2021 to provide certain revisions to Q&As I.8, I.10, and I.19, which have been withdrawn from the final guidance entitled “Questions and Answers on Biosimilar Development and the BPCI Act” issued September 20, 2021.

DATES: Submit either electronic or written comments on the draft guidance by May 11, 2026 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-2011-D-0611 for “New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 4).” 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., Hillendale Building, 4th Floor, Silver Spring, MD 20993-0002. The draft guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010 or emailing industry.biologics@fda.hhs.gov. 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:

Mustafa Unlu, Center for Drug Evaluation and Research (HF-22), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1139, Silver Spring, MD 20993-0001, 301-796-3396, CDER-BiologicsBiosimilarsInquiries@fda.hhs.gov; or Philip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 4).” The BPCI Act amended the Public Health Service Act (PHS Act) and other statutes to create an abbreviated licensure pathway in section 351(k) of the PHS Act (42 U.S.C. 262(k)) for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product (see sections 7001 through 7003 of the Patient Protection and Affordable Care Act (Pub. L. 111–148)). FDA’s view is that guidance for industry that provides answers to commonly asked questions regarding FDA’s interpretation of the BPCI Act will enhance transparency and facilitate the development and approval of biosimilar and interchangeable products.

This draft guidance is a companion to the final guidance for industry issued in September 2021 entitled “Questions and Answers on Biosimilar Development and the BPCI Act.” In this pair of guidance documents, FDA issues each Q&A in draft form in a draft guidance, receives comments on the draft Q&A and, as appropriate, moves the Q&A to the final guidance after reviewing comments and incorporating suggested changes to the Q&A. A Q&A that was previously in the final guidance may be withdrawn and moved to a draft guidance if FDA determines that the Q&A should be revised in some respect and reissued in a revised draft Q&A for comment. Furthermore, a Q&A also may be withdrawn and removed from a Q&A guidance if, for instance, the concept(s) addressed by the Q&A is addressed, or would be addressed more appropriately, in a different FDA guidance document.

This draft guidance contains Q&As distributed for comment purposes only and includes proposed revisions to Q&As that appeared in previous versions of the final guidance documents. The final guidance contains Q&As that have been through the public comment process and reflects FDA’s current thinking on the topics described. While these guidances have been revised over time, FDA has maintained the original numbering of the Q&As as they were published in the original versions of these guidances and subsequent revisions (available at <https://www.regulations.gov/docket/FDA-2011-D-0611/document>).

This draft guidance contains revised versions of three Q&As (Q&A I.8, Q&A I.10, and Q&A I.19). The revised Q&A

I.8 is now organized into two parts: Part “a” describes FDA’s updated recommendations regarding how a clinical study (such as an assessment of pharmacokinetics (PK)) comparing the proposed biosimilar with a non-U.S.-licensed comparator product could address, in part, the requirements under section 351(k)(2)(A) of the PHS Act and support a demonstration of biosimilarity to the U.S.-licensed reference product in certain circumstances. Part “a” also identifies circumstances under which clinical data derived from a study using a non-U.S.-licensed comparator product may be acceptable. Part “b” elaborates on recommendations regarding the nature and extent of comparative analytical data between the non-U.S.-licensed comparator product and the U.S.-licensed reference product for purposes of the comparative analytical assessment. FDA is specifically requesting public comment on the utility of an analytical comparison between the proposed biosimilar product and the non-U.S.-licensed comparator product as part of the scientific justification to support the relevance of clinical data with a non-U.S.-licensed comparator product to a demonstration of biosimilarity to the U.S.-licensed reference product.

Additionally, minor updates were made to Q&As I.10 and Q&A I.19 for clarity and to align with revised Q&A I.8. FDA’s intent is that Part “a” of Q&A I.8 may inform a future revised guidance for industry entitled “Scientific Considerations in Demonstrating Biosimilarity to a Reference Product” and Part “b” may inform future revisions to a guidance for industry entitled “Development of Therapeutic Protein Biosimilars: Comparative Analytical Assessment and Other Quality-Related Considerations” as appropriate.

At this time, FDA is also withdrawing Q&As I.8, I.10, and I.19 from the final guidance entitled “Questions and Answers on Biosimilar Development and the BPCI Act” issued September 20, 2021, and reissuing the final guidance (with certain updates to the introductory text) solely for the purpose of withdrawing these particular Q&As. The Agency continues to evaluate other Q&As in this final guidance as part of its efforts to further enhance efficiency in biosimilar development programs and intends to update any Q&As that may no longer reflect the Agency’s current thinking, as appropriate.

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 “New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 4).” 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 final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

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 the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 relating to submission of an investigational new drug application have been approved under OMB control number 0910–0014. The collections of information relating to the submission of a BLA under section 351(k) of the PHS Act, including the submission of data from comparative analytical assessments and a clinical study or studies (including the assessment of immunogenicity and PK or pharmacodynamics), that are sufficient to demonstrate safety, purity, and potency in one or more appropriate conditions of use for which the reference product is licensed, as well as formal meetings between FDA and sponsors, have been approved under OMB control number 0910–0718.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.regulations.gov>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–04664 Filed 3–9–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket Nos. FDA–2024–E–3535 and FDA–2024–E–3536]

Determination of Regulatory Review Period for Purposes of Patent Extension; AURORA EV–ICD*Correction*

In Notice Document 2026–02383, appearing on pages 5497 through 5498, in the issue of Friday, February 6, 2026, make the following correction:

On page 5497, in the second column, in the ADDRESSES section, in the 8th line, “February 6, 2026” should read “April 7, 2026”.

[FR Doc. C1–2026–02383 Filed 3–9–26; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Center for Scientific Review; Amended Notice of Meeting**

Notice is hereby given of a change in the meeting of the Viral Dynamics and Transmission Study Section, March 19, 2026, 10:00 a.m. to March 20, 2026, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 17, 2026, 91 FR 7296 Doc No. 2026–03085.

Change in meeting date and time. The meeting is closed to the public.

Dated: March 6, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–04690 Filed 3–9–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting**

Notice is hereby given of a change in the meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council (DKNAC), May 13, 2026, 08:30 a.m. to 04:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on

November 19, 2025, FR Doc 2024–01998, 90 FR 52080.

DKNAC changed the subcommittee meetings to closed only and added a closed Executive Session at the end of the meeting. The meeting will remain as a one-day meeting. The meeting is partially closed to the public.

Dated: March 5, 2026.

Margaret N. Vardanian

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–04596 Filed 3–9–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Guided Interventions and Surgery Study Section.

Date: April 9, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Steven A Ripp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3010, steven.ripp@nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer and Hematologic Disorders Study Section.

Date: April 9, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Steven M Frenk, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480–8665, frenksm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Differentiation and Development.

Date: April 9, 2026.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, sara.ahlgren@nih.gov.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Chemical Biology and Probes Study Section.

Date: April 9–10, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Prema Chandrasekhar Iyer, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–1821, prema.iyer@nih.gov.

Name of Committee: Vascular and Hematology Integrated Review Group; Hemostasis, Thrombosis, Blood Cells and Transfusion Study Section.

Date: April 10, 2026.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Vivian Tang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–6208, tangvw@csr.nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Nutrition and Metabolism in Health and Disease Study Section.

Date: April 10, 2026.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, jonathan.peterson@nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical Integrative Cardiovascular and Hematological Sciences Study Section.
Date: April 10, 2026.

Time: 9:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Marie-Luise Brennan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-0732, marie-luise.brennan@nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pathophysiology of Obesity and Metabolic Disease Study Section.

Date: April 13, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Latha Malaiyandi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812Q, Bethesda, MD 20892, (301) 435-1999, malaiyandilm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Molecular Genetics, Genomics, Genetic Evolution, and Prokaryotic Biology.
Date: April 13, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Marcienne Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3878 marci.wright@nih.gov.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Genetics Study Section.

Date: April 13–14, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806 Bethesda, MD 20892, 301 435 1256, biesj@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93–837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 6, 2026.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–04644 Filed 3–9–26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: 30-Day Comment Request; The Clinical Trials Reporting Program (CTRP) Database (NCI); Correction

AGENCY: National Institutes of Health, HHS.

ACTION: Notice; correction.

SUMMARY: The Department of Health and Human Services, National Institutes of Health published a Notice in the **Federal Register** on February 25, 2026. That notice requires a correction in the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of February 25, 2026, in FR Doc. 2026–03709, on page 9293, correct the **SUPPLEMENTARY INFORMATION** caption to read:

This proposed information collection was previously published in the **Federal**

Register on December 23, 2025 (90 FR 60112) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection Title: The Clinical Trials Reporting Program (CTRP) Database, 0925–0600, Expiration Date 02/28/2026—REINSTATEMENT WITH CHANGE, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Clinical Trials Reporting Program (CTRP) is an electronic resource that serves as a single, definitive source of information about all NCI-supported clinical research. This resource allows the NCI to consolidate reporting, aggregate data, and reduce redundant submissions. Clinical research administrators submit information as designees of clinical investigators who conduct NCI-supported clinical research. The designees can electronically access the CTRP website to complete the initial trial registration. After registration, three amendments and four study subject accrual updates occur per trial annually.

OMB approval is requested for three years. There are no costs to respondents other than their time. The estimated annualized burden hours are 18,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Initial Trial Registration	Individuals	3,000	1	1	3,000
Trial Registration Update		1,500	3	1	4,500
Trial Registration Amendment		1,500	3	1	4,500
Accrual Updates		3,000	4	30/60	6,000
Totals		9,000	24,000	.....	18,000

Alycia Booth,

NIH Federal Register Certifying Official,
National Institutes of Health.

[FR Doc. 2026-04635 Filed 3-9-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, April 01, 2026, 2:00 p.m. to April 01, 2026, 4:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on February 27, 2026, 91 FR 9874.

This meeting is canceled due to the re-assignment of applications.

Dated: March 6, 2026.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of
Federal Advisory Committee Policy.

[FR Doc. 2026-04647 Filed 3-9-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: May 12-13, 2026.

Closed: May 12, 2026, 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: Natcher Building, Building 45, 45 Center Drive, Bethesda, MD 20892 (In Person Meeting).

Closed: May 13, 2026, 8:00 a.m. to 9:00 a.m.

Agenda: NIA IRP Review.

Address: Natcher Building, Building 45, 45 Center Drive, Bethesda, MD 20892 (In Person Meeting).

Open: May 13, 2026, 9:00 a.m. to 12:30 p.m.

Agenda: Call to Order and Director's Status Report; Council Business; Meeting Adjourned.

Address: Natcher Building, Building 45, 45 Center Drive, Bethesda, MD 20892 (In Person Meeting).

Contact Person: Kenneth Santora, Ph.D., Director, Office of Extramural Activities, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496-9322, ksantora@nih.gov.

In the interest of security, NIH has procedures at <https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx> for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: www.nia.nih.gov/about/naca, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 5, 2026.

Margaret Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-04597 Filed 3-9-26; 8:45 am]

BILLING CODE 4140-01-P

ACTION: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 11, 2026.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0167 in the body of the letter, the agency name and Docket ID USCIS-2025-0502. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2025-0502.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, John R. Pfirrmann-Powell, Acting Deputy Chief, telephone number (240) 721-3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2025-0502 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0167]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Immigrant Petition for the Gold Card Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Immigrant Petition for the Gold Card Program.

(3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: I-140G; USCIS.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households; Business or other for-profit. Form I-140G is used by an individual (self-petitioner) or corporation or similar entity (corporate petitioner) to request an employment-based immigrant visa under the Gold Card program established by Executive Order 14351, The Gold Card (Sep. 19, 2025).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of annual respondents for the information collection I-140G (self-petitioners) is

1,520 and the estimated hour burden per response is 5 hours; the estimated total number of annual respondents for the information collection I-140G (corporate petitioners) is 72 and the estimated hour burden per response is 5 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated total annual hour burden associated with this collection is 7,960 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is \$819,880.

Dated: March 3, 2026.

John R. Pfirrmann-Powell,

Acting Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2026-04603 Filed 3-9-26; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[267A2100DD/AAKC001030/
A0A501010.000000]

Indian Gaming; Approval by Operation of Law of the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin and State of Wisconsin Gaming Compact

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the approval by operation of law of the 2025 Amendment to the Lac du Flambeau Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1992, as Amended (Amendment), governing the operation and regulation of class III gaming activities.

DATES: The Amendment takes effect on March 10, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Woodward, Acting Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, IndianGaming@bia.gov; (202) 219-4066.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 *et seq.*, (IGRA) provides the Secretary of the Interior (Secretary) with 45 days to review and approve or disapprove the Tribal-State compact governing the conduct of class III

gaming activity on the Tribe's Indian lands. See 25 U.S.C. 2710(d)(8). If the Secretary does not approve or disapprove a Tribal-State compact within the 45 days, IGRA provides the Tribal-State compact is considered to have been approved by the Secretary, but only to the extent the compact is consistent with IGRA. See 25 U.S.C. 2710(d)(8)(D). The IGRA also requires the Secretary to publish in the **Federal Register** a notice of the approved Tribal-State compacts for the purpose of engaging in class III gaming activities on Indian lands. See 25 U.S.C. 2710(d)(8)(D). As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment makes technical changes and rephrases for clarity the regulatory fee provision and the payment calculation in the disaster relief provision. The Secretary took no action on the Amendment within the 45-day statutory review period. Therefore, the Amendment is considered to have been approved, but only to the extent it is consistent with IGRA. See 25 U.S.C. 2710(d)(8)(C).

William Henry Kirkland III,

Assistant Secretary—Indian Affairs.

[FR Doc. 2026-04667 Filed 3-9-26; 8:45 am]

BILLING CODE 4337-15-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-790 and 731-TA-1778 (Preliminary)]

Lithium Hexafluorophosphate From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701-TA-790 and 731-TA-1778 (Preliminary) pursuant to the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of lithium hexafluorophosphate from China, provided for in subheadings 2826.90.90, 3824.91.00, and 3824.99.93 of the Harmonized Tariff Schedule of the

United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by April 20, 2026. The Commission’s views must be transmitted to Commerce within five business days thereafter, or by April 27, 2026.

DATES: March 5, 2026.

FOR FURTHER INFORMATION CONTACT:

Peter Stebbins (202–205–2039), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on March 5, 2026, by Mexichem Fluor Inc. dba Orbia Fluor & Energy Materials, Boston, Massachusetts.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission’s rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and

countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on Thursday, March 26, 2026. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before noon on Tuesday, March 24, 2026. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission’s Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission’s deliberations may request permission to participate by submitting a short statement.

Please note the Secretary’s Office will accept only electronic filings during this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission’s rules, any person may submit to the Commission on or before 5:15 p.m. on March 31, 2026, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and

supplementary material in connection with their presentation at the conference no later than 4:00 p.m. on March 25, 2026. All written submissions must conform with the provisions of § 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s *Handbook on Filing Procedures*, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter’s knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission’s rules.

By order of the Commission.

Issued: March 5, 2026.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2026–04617 Filed 3–9–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1153 (Third Review)]

Certain Tow-Behind Lawn Groomers and Parts Thereof From China; Determination

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty order on certain tow-behind lawn groomers and parts thereof from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2025 (90 FR 28780, July 1, 2025) and determined on November 24, 2025 that it would conduct an expedited review (90 FR 61163, December 30, 2025).²

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on March 5, 2026. The views of the Commission are contained in

USITC Publication 5712 (March 2026), entitled *Certain Tow-Behind Lawn Groomers and Parts Thereof from China: Investigation No. 731–TA–1153 (Third Review)*.

By order of the Commission.

Issued: March 5, 2026.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2026–04628 Filed 3–9–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 1642]

Bulk Manufacturer of Controlled Substances Application: Sigma Aldrich Research Biochemicals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Sigma Aldrich Research Biochemicals Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit

electronic comments on or objections to the issuance of the proposed registration on or before May 11, 2026. Such persons may also file a written request for a hearing on the application on or before May 11, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on December 18, 2025, Sigma Aldrich Research Biochemicals Inc., 400–600 Summit Drive, Burlington, Massachusetts 01803, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
Methaqualone	2565	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
Lysergic acid diethylamide	7315	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxymethamphetamine	7405	I
Alpha-methyltryptamine	7432	I
Dimethyltryptamine	7435	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Benzylpiperazine	7493	I
2C–H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Heroin	9200	I
Normorphine	9313	I
Norlevorphanol	9634	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Nabilone	7379	II
Phencyclidine	7471	II
Cocaine	9041	II
Codeine	9050	II

¹ The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

² Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission tolled its schedule for this proceeding.

Controlled substance	Drug code	Schedule
Ecgonine	9180	II
Levorphanol	9220	II
Meperidine	9230	II
Methadone	9250	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphaacetylmethadol	9648	II
Noroxymorphone	9668	II
Remifentanyl	9739	II
Sufentanyl	9740	II
Carfentanyl	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture the listed controlled substances as reference standards. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026-04655 Filed 3-9-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0360]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title—Generic Clearance for Cognitive, Pilot, and Field Studies for Office of Juvenile Justice and Delinquency Prevention Data Collection Activities

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The National Institute of Justice, Office of Justice Programs, Department of Justice (DOJ), will be submitting the following generic information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 11, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Benjamin Adams, Supervisory Social Science Analyst, National Institute of Justice, 999 N Capitol Street NE, Washington, DC 20531 (email:

benjamin.adams@usdoj.gov; telephone: 202-598-6493).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office of Juvenile Justice and Delinquency Prevention, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: The proposed generic information collection clearance will enable the National Institute of Justice (NIJ), on behalf of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), to develop, test, and improve its survey and data collection instruments and methodologies. NIJ will engage in cognitive, pilot, and field test activities to inform its data collection efforts and to minimize respondent burden associated with each new or modified data collection. NIJ anticipates using a variety of procedures including, but not limited to, tests of various types of survey and data collection operations, focus groups, cognitive laboratory

activities, pilot testing, field testing, exploratory interviews, experiments with questionnaire design, and usability testing of electronic data collection instruments.

Following standard Office of Management and Budget (OMB) requirements, NIJ will submit an individual request to OMB for every group of data collection activities undertaken under this generic clearance. NIJ will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project.

Overview of This Information Collection

1. Type of Information Collection: Extension of a currently approved collection.
2. The Title of the Form/Collection: Generic clearance for cognitive, pilot, and field studies for Office of Juvenile Justice and Delinquency Prevention data collection activities.
3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form numbers are not available for a generic clearance. The applicable components within the Department of Justice are the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, in the Office of Justice Programs.
4. Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public: State, local and tribal governments, individuals or households, Private Sector-for or not for profit institutions. The obligation to respond is voluntary.
5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that approximately 2,000 respondents will be involved in the anticipated cognitive, pilot, and field-testing work over the 3-year clearance period. Specific estimates for the average response time are not

known for development work covered under a generic clearance. The estimated public burden for identified and future projects covered under this

generic clearance over the 3-year clearance period is approximately 4,000 hours.

6. An estimate of the total annual cost burden associated with the collection, if applicable: The estimated annual cost burden for this collection is \$0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (min.)	Total annual burden (hours)
Generic information collections activities	2,000	1	2,000	120	4,000
Unduplicated Totals	2,000	.....	2,000	.....	4,000

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: March 6, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-04648 Filed 3-9-26; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

HIRE Vets Medallion Program— Announcement of HIRE Vets Medallion Award Recipients

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor

ACTION: Notice.

SUMMARY: In a news release announcing the recipients of the 2025 HIRE Vets Medallion Awards, the Department of Labor (Department) recognized a select group of veteran-ready employers for excellence in recruiting, employing, and retaining America's veterans. The record number of employers announced on January 30, 2026, range from small

businesses and nonprofit organizations to national corporations. Recipients receive an award certificate along with a digital image of the medallion for their use, including as part of an advertisement, solicitation, business activity, or product. The awards are conferred in six categories, based on the size of the employer (small, medium, or large) and what level of criteria their application met (platinum or gold). This action announces the recipients of the 2025 HIRE Vets Medallion Awards and application fees for 2026.

FOR FURTHER INFORMATION CONTACT:

Randall Smith, Veterans' Employment and Training Service, U.S. Department of Labor, Room S-1325, 200 Constitution Avenue NW, Washington, DC 20210, email: HIREVets@dol.gov, telephone: (202) 693-4745 or TTY (877) 889-5627 (these are not toll-free numbers). For press inquiries, contact Courtney Parella, Office of Public Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-1032, Washington, DC 20210, email: parella.courtney.e@dol.gov, telephone: (202) 693-4676 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The HIRE Vets Medallion Awards are authorized by the Honoring Investments in Recruiting and Employing American Military Veterans Act of 2017 (HIRE Vets Act), enacted on May 5, 2017, as Division O of the Consolidated Appropriations Act, 2017, Public Law

115-31, 131 Stat. 838. The Department codified the HIRE Vets Act's requirements through regulations found at 20 CFR part 1011¹ and an information collection containing the application forms.² This notice is required by section 2(b)(4)(B) of the HIRE Vets Act and the regulation at 20 CFR 1011.200(d)(2).

VETS received 891 applications for the HIRE Vets Medallion Award in 2025. Among the 891 applications, the Secretary of Labor approved 888 applications for award, with 1 application denied and 2 applications withdrawn by the applicant. Of the 888 applications approved for award, the breakdown by award type is as follows: 233 small gold (SG), 154 small platinum (SP), 251 medium gold (MG), 155 medium platinum (MP), 80 large gold (LG), and 15 large platinum (LP).

The following list shows the 888 recipients for 2025 in alphabetical order by employer name, along with their doing business as (DBA) name (as applicable), state or territory and city, and award type.³ Per regulation,⁴ fees are to be adjusted for inflation periodically, and this increase is the first in program history. The inflationary rate is 28.7% (Apr 2017 to Apr 2025). Fees for 2026 are Small: \$120, Medium: \$250, and Large: \$640. For more information about the program, including award criteria, key dates, and applicant resources, visit <https://www.hirevets.gov>.

Employer name	DBA	City	State/ terr.	Award type
1st Family LLC	It's Boba Time Ontario	Ontario	CA	SG
2 Circle Incorporated .....	.....	California	MD	MP
7G Environmental Compliance Management .....	.....	Tallahassee	FL	MG
A1Fed Incorporated .....	.....	Reston	VA	SG
A2 Supply Chain Services LLC	Restoration 1 of Metro Detroit	Ann Arbor	MI	SP
Abile Group, Inc .....	.....	Harwood	MD	MP
Abundant Healing LLC .....	.....	Hallam	PA	SG

¹ For the final rule adopting these regulations, see 82 FR 52186 (Nov. 13, 2017).

² For the information collection and related documents, see OMB Control No. 1293-0015.

³ Employer Name and DBA edited as appropriate; VETS is not responsible for any typographical errors.

⁴ 20 CFR 1011.300.

Employer name	DBA	City	State/ terr.	Award type
Academy Securities, Inc		New York	NY	MG
Acato Information Management LLC		Oak Ridge	TN	SP
ACCIONA Energy USA Global LLC		Chicago	IL	MG
Acclaim Technical Services, LLC	ATS ESOP Holdings, Inc	Reston	VA	LG
ACE Consulting Company, INC		Nicholasville	KY	SP
Actualized Business Solutions, Inc	ABSI Aerospace & Defense	California	MD	SP
Adapt Forward Cyber Security LLC		North Charleston	SC	MG
Adaptive Construction Solutions	Adaptive Construction Solutions	Houston	TX	MP
Advanced Management Strategies Group (AMSG)	AMSG	Dumfries	VA	MP
Advanced Program Analytics, LLC	APA, LLC	Dumfries	VA	SG
Advanced Technology International	ATI	Summerville	SC	MP
Aero Engine Solutions, Inc		West Palm Beach	FL	SG
Affinis Corp		Overland Park	KS	SG
Agile IT Synergy	AITs	Tampa	FL	SP
Agility Federal LLC		Phoenix	AZ	SP
Agility MFG Inc	Agility MFG Inc	Dover	NH	SG
Air Combat Effectiveness Consulting Group, LLC	ACE Consulting Group, LLC	Lexington Park	MD	MP
Airstreams Renewables Inc		Tehachapi	CA	MG
Akira Technologies, Inc		Washington	DC	SG
AL SHIPYARD LLC	AL Shipyard	Mobile	AL	MG
Aldevra LLC		Kalamazoo	MI	SG
All In Solutions, LLC		Fredericksburg	VA	MP
All Inclusive Security & Investigation		Detroit	MI	SG
Allen & Associates Investment Management	AAIM FINANCIAL	Nashville	TN	SG
Alliance Cyber		Cocoa	FL	SP
Allied Safety Group, LLC		East Peoria	IL	SG
ALLO Communications		Lincoln	NE	LG
Alluvionic Inc	Alluvionic Inc	Melbourne	FL	MP
ALLY Construction Services	ALLY Construction Services LLC	Bensalem	PA	MP
Altus Architectural Studios, Inc		Omaha	NE	SP
AM General LLC		South Bend	IN	LG
American International Tooling, Inc		Minden	NV	SG
American States Utility Services, Inc		San Dimas	CA	MP
AMERICAN SYSTEMS		Chantilly	VA	LG
America's Central Port District		Granite City	IL	SG
America's Warrior Partnership, Inc		Augusta	GA	SP
AmeriTech Contracting LLC		Berlin	CT	SG
AmeriVet Securities, Inc		New York	NY	SP
Ametrine, Inc		Round Rock	TX	SP
Amped Pump & Controls		Ponderay	ID	SG
Amphenol Borisch Technologies		Grand Rapids	MI	MG
ANALYGENCE, Inc		Fulton	MD	MG
ANVIL Systems Group, Incorporated		Lorton	VA	SP
AOC Solutions, Inc		Fairfax	VA	SG
Aperio Global, LLC		Chantilly	VA	SG
APEX TK		Tampa	FL	SG
Apogee Solutions, Inc		Chesapeake	VA	MG
Apollo Mission Critical Engineering, LLC		Ashburn	VA	MG
Applied Companies, Inc		Valencia	CA	MG
Applied Visual Technology Inc	AVT Simulation	Orlando	FL	MP
A-P-T Research, Inc		Huntsville	AL	MP
Aptive		Alexandria	VA	MG
Aquatic World of North Syracuse Inc		North Syracuse	NY	SG
Ardent Management Consulting, LLC		Vienna	VA	MP
Arete Consulting LLC		Fredericksburg	VA	SP
ARNOLD DEFENSE AND ELECTRONICS, LLC		Arnold	MO	SP
Arrowhead Winch Inc	BPG-Arrowhead Winch Inc	Broken Arrow	OK	MP
Artemis ARC		Alexandria	VA	MG
ARTEMIS ELECTRONICS, LLC		Prospect	KY	SG
ASCI Federal Services, LLC		Anchorage	AK	SG
Asheville Buncombe Community Christian Min- istries—Veterans Services of the Carolinas	ABCCM	Arden	NC	MG
ASJ IT Services, LLC	ASJ Solutions	Chesapeake	VA	SG
Assertive Professionals		Wilmington	NC	SP
Assured Consulting Solutions		Reston	VA	MP
Assured Information Security		Rome	NY	MG
Atec, Inc		Stafford	TX	MG
ATECH, Inc		Nashville	TN	MG
Atlas Sand Employee Company, LLC	Atlas Energy Solutions	Austin	TX	LG
Atlas Technologies		North Charleston	SC	MP
Atriax, PLLC	Atriax Group	Hickory	NC	SG
Attollo, LLC		New Bern	NC	SP

Employer name	DBA	City	State/ terr.	Award type
Augustine Consulting Inc		Hamilton	NJ	MG
Aurubis Richmond LLC	Aurubis Richmond	Augusta	GA	MG
AutoBase Inc		Amityville	NY	MP
AVIAN, LLC	AVIAN	Lexington Park	MD	MG
Aviate Enterprises, Inc		Sacramento	CA	SP
Azorna Healthcare LLC	Azorna Hospice and Palliative Care	Mesa	AZ	SG
Bancroft Capital, LLC		Fort Washington	PA	SP
Banner Defense, INC		Madison	AL	SP
Barnett Engineering & Signaling Laboratories LLC	Barnett Engineering & Signaling Laboratories LLC.	Colorado Springs	CO	SP
Bart & Associates, LLC	B&A	McLean	VA	MG
Battelle Energy Alliance	Idaho National Laboratory	Idaho Falls	ID	LG
Battelle Savannah River Alliance, LLC		Aiken	SC	LG
BC Medical	BC Medical	Reno	NV	SG
Beagle Hill Services LLC		Fazeysburg	OH	SG
Beast Code LLC	Beast Code LLC	Fort Walton Beach	FL	MG
Beeline Tours Ltd	Beeline Tours Ltd.	Renton	WA	SG
Bell Textron		Fort Worth	TX	LP
Bergstrom Automotive Management, INC	Devils Lake Cars	Devils Lake	ND	MG
Berry Law PC LLO	Berry Law PC LLO	Lincoln	NE	MG
Beshenich Muir & Associates	Beshenich Muir & Associates	Huntsville	AL	MP
Betis Group, Inc		McLean	VA	SP
BGIS Global Integrated Solutions US LLC		Seattle	WA	LG
Black Bear Technology Solutions, LLC		Alexandria	VA	MG
Black Hills Service Company LLC	Black Hills Energy	Rapid City	SD	LG
Blackrock Strategy, LLC		Huntsville	AL	SP
Blaine Brothers Maintenance Inc		Blaine	MN	MP
Blake Willson Group, LLC		Arlington	VA	MG
BLOKWORX LLC		Reno	NV	SP
Blue Star Families	Blue Star Families, Inc	Encinitas	CA	MP
BlueHalo LLC		Arlington	VA	LG
BluePath Labs		Washington	DC	MG
Boingo Wireless		Frisco	TX	MG
Boots 2 Cyber, LLC	Boots 2 Cyber, LLC	Paragould	AR	SG
Booz Allen Hamilton		McLean	VA	LG
Boyer Commercial Construction, Inc		Columbia	SC	SP
Brandzooka, Inc		Boulder	CO	SG
BreakPoint Labs		Falls Church	VA	SG
Brighton Marine, Inc	Brighton Marine, Inc	Brighton	MA	SG
Brightstar Innovations Group		Fairfax	VA	SG
C & G Consulting, Inc		Manassas Park	VA	SG
C5MI Insight LLC	C5MI	Jacksonville Beach	FL	MP
CACI International Inc		Reston	VA	LG
CADDELL CONSTRUCTION	CADDELL CONSTRUCTION	Montgomery	AL	MG
CAE USA INC		Tampa	FL	LP
Cahaba Federal Solutions	Cahaba Federal Solutions	Huntsville	AL	SG
Caladwich Consulting LLC		Annandale	VA	MG
Caliola Engineering, LLC		Colorado Springs	CO	SG
Calvert Systems Engineering Inc	Calvert Systems Engineering Inc	Bellevue	NE	MG
CANA LLC	CANA Advisors LLC	Gainesville	VA	SG
Canopy Health LLC	Canopy Health JV	Decatur	AL	SP
Canvas II LLC	Canvas	Huntsville	AL	LG
Career Learning & Employment Center for Veterans Inc.	Operation: Job Ready Veterans (OJRV)	Indianapolis	IN	SP
Career Systems Development	Ottumwa Job Corps Center	Ottumwa	IA	MG
Carley Corporation	Carley Corporation	Orlando	FL	MG
Carver Machine Works, Inc	CMW Global	Washington	NC	SG
Castalia Systems LLC		Tampa	FL	MG
Caylor Equipment Services, LLC		Jupiter	FL	SG
Cayuse Holdings, LLC		Pendleton	OR	LG
CE Solutions Inc	CE Solutions Inc	Huntsville	AL	SG
CEG Solutions, LLC		Arlington	VA	MP
Celerity Government Solutions, LLC	Xcelerate Solutions	McLean	VA	LG
Central Texas Electric Cooperative, Inc		Fredericksburg	TX	MG
Chenega Corporation		Anchorage	AK	MG
CHI Aviation	Construction Helicopters Inc	Howell	MI	MP
Choctaw Nation of Indians, Inc	Choctaw Nation of Indians	Mount Vernon	AL	SG
Cincinnati Incorporated		Harrison	OH	MP
Cintel Inc	Cintel	Huntsville	AL	SP
Circle Computer Resources	CCR Technologies	Cedar Rapids	IA	MP
Citizens Bank of Edmond		Edmond	OK	MG
Citizens Development Center	U&I	Dallas	TX	SG
Citrine LLC	Citrine LLC	Lakewood	CO	SG

Employer name	DBA	City	State/ terr.	Award type
City of Alpharetta		Alpharetta	GA	MG
City of Asheboro		Asheboro	NC	MG
City of Cape Canaveral		Cape Canaveral	FL	MP
City of Conover	City of Conover	Conover	NC	MG
City of Harker Heights		Harker Heights	TX	MG
City of Quincy	City of Quincy	Quincy	IL	MG
City of St. Charles	City of St. Charles	St. Charles	IL	MG
City of Westbrook		Westbrook	ME	MG
Clarklift of Des Moines, Inc	Forklifts of Des Moines & Omaha	Des Moines	IA	SG
CLC, Inc		Fort Worth	TX	SP
Clear Resolution Consulting, LLC		Baltimore	MD	SP
Clearwater Security & Compliance LLC	Clearwater	Nashville	TN	MG
CMS Corporation		Maumee	OH	MP
CMT Site Solutions	CMT Site Solutions	Lakewood	CO	SG
Colorado Sheet Metal JATC	Colorado Sheet Metal JATC	Colorado Springs	CO	MP
Command Holdings, a Pequot Company		Mashantucket	CT	MG
CommandTec, LLC		Huntsville	AL	SG
Community Security Services LLC		Mobile	AL	MG
Companion Data Services		Columbia	SC	MG
COMSETRA LLC		Jay	OK	SG
COMSO, Inc		Columbia	MD	MG
Conceras, LLC		Fairfax	VA	SP
Concordant LLC		Laramie	WY	SP
Consolidated Asset Management Services		Houston	TX	MG
Consolidated Nuclear Security, LLC		Oak Ridge	TN	LG
Constellation Software Engineering LLC	CSEngineering, LLC	Annapolis	MD	MG
Contracting Resources Group, Inc		Baltimore	MD	MP
Control Risks Group LLC		Washington	DC	MG
Convergint Technologies LLC	Convergint	Schaumburg	IL	LG
Converse Construction, Inc		Redding	CA	SG
Cordia LLC		Phoenix	AZ	MP
Core Government Services Corporation		Leesburg	VA	MG
Core4ce LLC		Arlington	VA	LG
Corps Solutions LLC		Stafford	VA	MP
CORTEK, Inc		St. Petersburg	FL	SP
CoSolutions, Inc		Sterling	VA	MG
Covered 6 LLC		Moorpark	CA	MG
CP Marine, LLC	CPMG, LLC	Juneau	AK	MP
CPS Energy		San Antonio	TX	LG
CPS Professional Services, LLC	CATHEXIS	Tysons	VA	MG
CriticalCxe		Annapolis	MD	SP
Crowned Grace International	Crowned Grace International	Lanham	MD	SG
Cruz Associates, Inc		Yorktown	VA	MG
CSA Global LLC	Client Solution Architects (CSA)	Virginia Beach	VA	LP
Cyber Ballet LLC		Wilmington	DE	SP
Cyber Offset Alliance		N. Charleston	SC	SP
CymSTAR LLC		Broken Arrow	OK	MG
CymSTAR Services LLC		Broken Arrow	OK	MG
DAGER Technology, LLC		Fairfax	VA	SP
DarkStar Intelligence, LLC		Alexandria	VA	MP
Dauntless Wine Company		Forest Grove	OR	SG
DAV Energy Solutions Inc	Davenergy Solutions	San Diego	CA	MG
DD DANNAR, INC	DANNAR	Muncie	IN	SP
Deer Brook Consulting		New Gloucester	ME	SG
DefendEdge OC LLC		Lombard	IL	SP
Defense Consulting Services, LLC		San Antonio	TX	MG
Defense Contracting, Inc	DCI Solutions	Aberdeen Proving Ground.	MD	MP
Delaware Nation Industries		Oklahoma City	OK	LG
DeliverFund		Whitefish	MT	SP
Delmarva Veteran Builders, LLC		Salisbury	MD	SG
DELTA CON GLOBAL INC		Sugarland	TX	SP
DIGITAL GLOBA CONNECTORS, LLC		McLean	VA	SG
Disabled Veterans Call Center LLC	Disabled Veteran Solutions	Erie	PA	MG
DLB Associates	DLB Associates	Neptune City	NJ	MP
Dominion Energy, Inc		Richmond	VA	LG
Dorreaan, LLC		Reston	VA	MG
Dotts Group LLC	Dotts Group	Downingtown	PA	SP
Douglas County Sheriff's Office		Castle Rock	CO	LG
Drexel Hamilton		New York	NY	SG
DroneShield, LLC		Warrenton	VA	SG
DVL Group, Inc	DVL Group, Inc	Bristol	PA	MG
DWBH, LLC (DWBHCORP)	DWBHCORP	Arlington	VA	MG

Employer name	DBA	City	State/ terr.	Award type
Dynamic Management Associates	DMA	Woodbridge	VA	SG
Dynamic Non-Destructive Testing Inc .....	.....	Jacksonville	FL	SG
Dynamic Planning & Response LLC .....	.....	Honolulu	HI	SP
Eagle Systems, Inc .....	.....	California	MD	MG
Early Services, Inc	Early Services, Inc	Decatur	AL	SG
Eastern Carolina Vocational Center, Inc. (ECVC)	Greenville	NC	MG	.....
Easton Utilities Commission .....	.....	Easton	MD	SP
ECPI University	ECPI University	Virginia Beach	VA	LG
E-Infosol LLC .....	.....	Rockville	MD	MG
Electrical Test Instruments, LLC	ETI Precision	Frederick	MD	MG
Electrosoft Services Inc .....	.....	Reston	VA	MG
Eljen Corporation .....	.....	Windsor	CT	MG
ELYON International, Inc .....	.....	Vancouver	WA	MG
EM Key Solutions, Inc	EMKS, Inc	St. Petersburg	FL	SP
EMD Electronics	EMD Electronics	Austin	TX	MP
Emerald Technical Solutions .....	.....	Havre De Grace	MD	SG
Emeritus Clinical Solutions, Inc .....	.....	Richardson	TX	SP
Employment Source, Inc .....	.....	Fayetteville	NC	MP
Enbridge, Inc .....	.....	Houston	TX	LG
Energy Systems Group .....	.....	Newburgh	IN	MG
Enhanced Veterans Solutions, Inc .....	.....	Fairfax	VA	SP
ENSCO Rail, Inc .....	.....	Vienna	VA	MG
ENSCO, Inc .....	.....	Vienna	VA	LG
Entegrity Consulting Group .....	.....	Dayton	OH	SP
Entergy Corporation	Entergy	New Orleans	LA	LG
Enterprise Solutions & Management Corporation	Springfield	VA	MG	.....
Envent Corporation .....	.....	La Porte	TX	MG
ENVENTION, LLC	ENVENTION, LLC	Huntsville	AL	SG
Environet Inc .....	.....	Honolulu	HI	SG
Environmental Chemical Corporation .....	.....	Burlingame	CA	MP
EPS Corporation .....	.....	Tinton Falls	NJ	MP
Epsilon Inc .....	.....	Weaverville	NC	MP
EquipmentShare	EquipmentShare.com	Columbia	MO	LG
Erie Industrial Products .....	.....	Oberlin	OH	SG
eTRANSERVICES Corp .....	.....	Stafford	VA	SG
Ever-Green Energy, Inc .....	.....	St. Paul	MN	MG
Evergy, Inc	Evergy	Kansas City	MO	LG
Eversource Energy .....	.....	Hartford	CT	LP
Exact Staff, Inc	Exact Staff, Inc	Calabasas	CA	MG
Excentium, Inc .....	.....	Reston	VA	SP
Exceptional Employees for Exceptional Results, Inc.	E3R, Inc	San Diego	CA	MP
Exigo Corporation .....	.....	Colorado Springs	CO	SG
EXPANSIA .....	.....	Nashua	NH	MG
Explosive Countermeasures International Inc	ECI	Delaplane	VA	SG
Exquadrum, Inc .....	.....	Victorville	CA	MG
EyeMax Security	EyeMax	Loganville	GA	SG
F3EA, Inc .....	.....	Savannah	GA	MG
Fastport, Inc	Fastport, Inc	Valparaiso	IN	SG
Fathom 4, LLC .....	.....	Charleston	SC	MG
Fathom5 Corporation .....	.....	Austin	TX	SP
Federal Practice Group .....	.....	Washington	DC	SP
FedWriters .....	.....	Fairfax	VA	MG
Feith Systems and Software, Inc .....	.....	Fort Washington	PA	MP
FiberLight LLC .....	.....	Plano	TX	MG
Flagship Management, LLC .....	.....	Bristol	PA	MG
FleetForce LLC	FleetForce Truck Driver Training	Sarasota	FL	MG
Florida is for Veterans, Inc	Veterans Florida	Tallahassee	FL	SG
Fluor Marine Propulsion LLC .....	.....	West Mifflin	PA	LG
Foley, Incorporated .....	.....	Piscataway	NJ	LG
Fontaine Consulting, LLC .....	.....	East Moline	IL	SP
Forge Group LLC .....	.....	Reston	VA	MP
FORTS Logistics	FORTS Logistics	Coconut Creek	FL	SG
FourFront Design, Inc .....	.....	Rapid City	SD	SG
Foxhole Technology .....	.....	Herndon	VA	MG
Freedom Staffing, LLC .....	.....	Indianapolis	IN	SG
G L Bruno Associates, Inc .....	.....	Fresno	CA	SG
Gannon & Scott Phoenix, Inc .....	.....	Phoenix	AZ	SG
GCubed Enterprises Inc	GCubed, Inc	Stafford	VA	SP
GDM-AE, Inc .....	.....	Vancouver	WA	SG
GeekFindrz LLC	MOMENTUM	Huntsville	AL	SG
General Dynamics Mission Systems	General Dynamics Mission Systems	Chantilly	VA	LG
General Electric Company .....	.....	Evendale	OH	LG

Employer name	DBA	City	State/ terr.	Award type
General Infomatics, Inc		McLean	VA	MG
Global Business Solutions, LLC	GBSI	Pensacola	FL	SP
Global Security Services	Global Security Services	Davenport	IA	MP
Global Skills Exchange Corporation	GSX	Alexandria	VA	SG
Global Technology Management Resources	GTMR	Hollywood	MD	MP
GLOTECH, Inc		Rockville	MD	MG
GMRE, Inc		South Ogden	UT	MG
Goldbelt Apex		Herndon	VA	MP
Goldbelt C6, LLC		Chesapeake	VA	MP
Goldbelt Frontier, LLC		Alexandria	VA	MP
Goldbelt Glacier Health Services, LLC		Herndon	VA	MP
Goldbelt Hawk, LLC		Newport News	VA	MP
Goldbelt Integrated Logistics Services		Chesapeake	VA	MP
Goldbelt Nighthawk, LLC		Newport News	VA	MP
Goldbelt Professional Services		Chesapeake	VA	MG
Goldbelt Security, LLC		Juneau	AK	SP
Goodworks, Inc		New Orleans	LA	MG
Government Tactical Solutions	The Amatriot Group	Vienna	VA	MG
Granite Shore Power, LLC		Bow	NH	MP
GratitudeAmerica Inc		Fernandina Beach	FL	SP
Greater Columbus Convention Center	Greater Columbus Convention Center	Columbus	OH	MG
Green Cell Consulting, LLC		Fredericksburg	VA	SG
Green Expert Technology Inc		Haddonfield	NJ	MG
Greencastle Associates Consulting, LLC		Malvern	PA	MP
Greystones Consulting Group, LLC	Greystones Group	Washington	DC	SG
Ground Up Trade & Talent Solutions		Fairfax	VA	SG
GSI Service Group		Honolulu	HI	MG
H M Cragg Co		Edina	MN	MG
H2 Performance Consulting Corp		Gulf Breeze	FL	MP
H2B, Inc		Houston	TX	SG
HAAAN Group, Inc		Mansfield	TX	SP
Haastech Inc		Dallas	TX	SP
Hanford Mission Integration Solutions		Richland	WA	LG
Hatalom Corporation		Orlando	FL	MG
Hawaiian Telcom Communications Inc	Hawaiian Telcom Communications Inc	Honolulu	HI	LG
Hawkeye Tracking Inc		Lexington Park	MD	SG
HazAir, Inc	HazAir, Inc	Henderson	NV	SG
Helimax Aviation		McClellan	CA	MG
Helmets to Hardhats	Center for Military Recruitment, Assessment and Veterans' Employment.	Washington	DC	SG
Heptagon Information Technology, LLC		Montgomery	AL	SP
Herc Rentals		Bonita Springs	FL	LG
Heritage Roofing & Construction Company		Cedar Park	TX	MG
Hernandez Consulting Inc		New Orleans	LA	SP
HICAPS, Inc		Greensboro	NC	SP
HigherEchelon, Inc		Huntsville	AL	MP
Hilliard Division of Police		Hilliard	OH	SP
Hire Heroes USA		Alpharetta	GA	MG
Hiscomp LLC	Hiscomp LLC	Accokeek	MD	SG
Hogland Transfer Company		Everett	WA	MP
HomeFree, Inc		Carlsbad	CA	SG
Hope For The Warriors		Springfield	VA	MG
HTI Hall Trucking Express	HTI	Findlay	OH	SG
Hudgins Contracting Corp		Hampton	VA	SG
Huot Construction & Services		South St. Paul	MN	SG
HurtVet Subcontracting LLC		Park City	UT	SP
HX5, LLC		Fort Walton Beach	FL	LG
HydroGeoLogic, Inc		Reston	VA	LG
Iberia Advisory LLC		Washington	DC	SP
Ignite Fueling Innovation		Huntsville	AL	MG
Incident Communication Solutions, LLC	PEAKE	Millersville	MD	SG
Indigo IT LLC		Herndon	VA	MP
Industrial Packaging Supplies, Inc	IPS Packaging & Automation	Greenville	SC	MG
Infinity Systems Engineering		Colorado Springs	CO	MP
Infinity Technology Services, LLC	ITS, LLC	Colorado Springs	CO	MP
Information Management Group, Inc	IMG	Fairfax	VA	MG
Inline Defense LLC		Raleigh	NC	SG
Innovative Systems Group Inc		Raleigh	NC	SG
iNovex Information Systems		Columbia	MD	LG
Insight Technology Solutions, LLC	Insight Technology Solutions	Annapolis	MD	MG
Insignia Technology Services	9th Way Insignia	Ashburn	VA	MP
Inspections Experts, Inc	Inspections Experts, Inc	Columbia	MD	MG
Inspired Solutions, Inc		Manassas	VA	SG

Employer name	DBA	City	State/ terr.	Award type
Integrated Data Services		Henderson	NV	MG
IntelliDyne, LLC		Tysons Corner	VA	MG
IntelliSys Solutions Group, LLC		Philadelphia	PA	SG
IntePros Federal Incorporated	IntePros Federal incorporated	Washington	DC	MG
Interactive Government Holdings, Inc		Springfield	VA	MP
Interactive Process Technology, LLC	IPT Associates—IPTA	Salem	NH	MG
International Controls Systems, Inc		Parker	CO	SG
International Logistics and Transportation LLC	Noblesville	IN	SG	
International Training Fund		Annapolis	MD	LP
Intrepid, LLC		Huntsville	AL	MG
Intuitive Research and Technology Corporation	Huntsville	AL	LP	
Invenergy		Chicago	IL	LG
INvets	Indiana Veterans Initiative	Indianapolis	IN	SP
iostudio		Nashville	TN	MP
IronArch Technology, LLC		Arlington	VA	MG
IronMountain Solutions	IronMountain Solutions, Inc	Huntsville	AL	MP
IT Concepts, Kentro	IT Concepts, Inc	McLean	VA	LG
IT Veterans LLC		Herndon	VA	SP
Itero Group LLC		Mechanicsburg	PA	MP
ITSC Secure Solutions, LLC		Owens Cross Roads	AL	MG
ITU AbsorbTech		New Berlin	WI	MG
Jackson Ryan Construction Services, Inc		Suffield	CT	SG
Jadin Tech, LLC		Anchorage	AK	SP
Jaguar Defense, Inc		Leesburg	VA	SP
Jamison Professional Services, Inc		East Point	GA	SP
Janes Group US, LLC		Arlington	VA	MG
Janissary, LLC		Houston	TX	MP
JANUS Research Group, LLC	JANUS Research Group, LLC	Evans	GA	LG
JAY AND KAY MFG		Croswell	MI	SG
Jay's Heating & Cooling, LLC		Wendell	NC	SG
JCTM		Charlotte	NC	SP
Jingoli Power, LLC		Lawrenceville	NJ	MP
JK Premier Marketing	JK Premier Marketing	Raleigh	NC	SG
JMA Resources, Inc		Mechanicsburg	PA	MP
John H. Northrop & Associates, Inc	JHNA	Clifton	VA	MG
Jore Industries, Inc		Huntsville	AL	SP
Jovian Concepts, Inc		Hanover	MD	MP
JR Kays Trucking, Inc		Clarendon	PA	SP
JS Solutions		Huntsville	AL	SG
JVS SoCal		Los Angeles	CA	MG
Kaizen Approach		Columbia	MD	SP
Kalman & Company, Inc		Virginia Beach	VA	MG
KANE COUNTY VETERANS ASSISTANCE COMMISSION.	Geneva	IL	SP	
KASTELLUM Group, LLC		Odessa	FL	SP
Katmai Government Services, LLC		Anchorage	AK	MG
Kegman, Inc	Kegman Inc	Melbourne	FL	MG
Kent, Campa and Kate (KCK) Inc		Arlington	VA	MG
KENTCO Corporation	ProteQ	Herndon	VA	SP
Kern Technology Group, LLC		Virginia Beach	VA	SP
Kilda Group, LLC		Severna Park	MD	SP
Kimberly-Clark		Jenks	OK	LG
KINETIC CONCEPTS, LLC		Pensacola	FL	SG
Kingsky Flight Academy, LLC		Lakeland	FL	MG
Kitty Hawk Technologies		King George	VA	MG
Kizano Corp		Woodbridge	VA	SP
Knight Federal Solutions, Inc		Orlando	FL	MP
Knowesis, Inc		Fairfax	VA	MP
Knowmadics, Inc		Herndon	VA	MG
KODA Technologies, Inc	KODA Technologies, Inc	Huntsville	AL	MG
Kolme Group		Phoenix	AZ	SP
Korn Ferry Professional Search (US)		Los Angeles	CA	LG
Kreative Technologies, LLC	Kreative Technologies	Fairfax	VA	MG
KSA Integration, LLC		Stafford	VA	MG
KUOG, INC		Huntsville	AL	SG
Kwest Group, LLC	Kwest Group	Perrysburg	OH	MP
Lawton Management, LLC	Squared Compass	Austin	TX	SP
Leffler Consulting, LLC		Chantilly	VA	SP
Legato, LLC		Columbia	MD	SP
Leisureland RV Center	Leisureland RV Center	Meridian	ID	SG
Leonardo DRS, Inc	Leonardo DRS, Inc	Arlington	VA	LG
Leonardo Electronics US, Inc		McLean	VA	MG
Leyden Solutions, Inc		Pinehurst	NC	SG

Employer name	DBA	City	State/ terr.	Award type
LG Electrical, LLC	LG Electrical, LLC	Littleton	CO	SP
Liberty Advisor Group, LLC		Chicago	IL	SP
Liberty Alliance, LLC		Tampa	FL	SG
Liberty Business Associates, LLC		Ladson	SC	MG
Life Cycle Engineering		Charleston	SC	LG
LINEV Systems US, Inc	ADANI Systems, Inc	Conroe	TX	MG
Link Solutions, Inc	Link Solutions, Inc	McLean	VA	MG
LiveOak Fiber, LLC		Brunswick	GA	MG
Lockheed Martin Corporation		Bethesda	MD	LG
Lockridge Builders, LLC		Charleston	SC	SP
Lodestar Consulting, Inc		Charlotte	NC	MP
Logic Automation Services, Inc		Peabody	MA	SG
Logistic Services International, Inc	LSI, Inc	Jacksonville	FL	MG
Lone Star College System		The Woodlands	TX	LG
Long Capture		Colorado Springs	CO	SP
LORING JOB CORPS CENTER	Loring Job Corps Center	Limestone	ME	MG
LOWEN Marine and Industrial, LLC		Willow Grove	PA	SG
LTC Solutions		Stafford	VA	SG
LYLOKI, LLC	IMPERIAL AUTO AND TRUCK SERVICE	Henderson	NV	SG
Lynch Consultants, LLC	Lynch Consultants	Arlington	VA	MP
Mainsail Group, LLC	Mainsail Group, LLC	Bedford	MA	SG
Markon, LLC		Falls Church	VA	MP
MartinFederal Consulting, LLC		Huntsville	AL	MG
Maryland Center for Veterans Education & Training.	Maryland Center for Veterans Education & Training (MCVET).	Baltimore	MD	SP
Mass Virtual, Inc		Orlando	FL	MG
Matrix Business Concepts, LLC	MATRIX	Concord	NH	MG
Maveris, LLC	Maveris	Martinsburg	WV	MP
Mb Solutions, Inc		Huntsville	AL	MG
MBL Technologies	MBL Technologies	Arlington	VA	SG
Meridian Management, Inc		Anchorage	AK	SP
Messer North America, Inc	Messer North America, Inc	Bridgewater	NJ	LG
Metal Masters of Florida, Inc	Metal Masters of Florida, Inc	Lake City	FL	SG
Metis Technology Solutions, Inc		Albuquerque	NM	MP
MI Technical Solutions, Inc		Chesapeake	VA	MG
MIKEL, Inc		Middletown	RI	MG
Miles Technology Solutions, LLC	Miles Enterprise Solutions	Charlotte	NC	SP
Millennium Corporation		Arlington	VA	MG
Miquin, LLC		Houston	TX	SG
Miramar Health	Miramar Health	Laguna Hills	CA	MG
Mischler Financial Group		Irvine	CA	MP
Miskarie USA, LLC	Summit SHRED LAB	Potsdam	NY	SG
Mission Connect ETA, LLC		Independence	OH	SG
Mission1st Group, Inc	Mission1st Group	Vienna	VA	SP
MIT Lincoln Laboratory	MIT Lincoln Laboratory	Lexington	MA	LP
Modern Technology Solutions, Inc		Alexandria	VA	LG
Montachusett Veterans Outreach Center	Montachusett Veterans Outreach Center	Gardner	MA	SG
Monte Sano Research Corporation		Huntsville	AL	MP
Monterey Consultants, Inc		Dayton	OH	MP
MS Technology, Inc		Oak Ridge	TN	SG
MTIV, LLC	MTIV	Carleton	MI	SG
MULE Engineering, Inc	MULE Engineering & Construction, Inc	Winter Garden	FL	SP
Mustard Seed PMO, LLC	MustardSeed PMO	West Chester	PA	SG
Naniq Government Services, LLC		Atlanta	GA	SP
National Native American Construction, Inc	NNAC, Inc	Coeur d'Alene	ID	MG
National Veteran-Owned Business Association	NaVOBA	Lexington	KY	SG
Nation's Finest		Santa Rosa	CA	MG
Nationwide IT Services, Inc		Fairfax	VA	MG
Native American Industrial Solutions, LLC		Pawleys Island	SC	SP
Naval Systems, Inc		Lexington Park	MD	MG
Navigator Development Group, Inc	Navigator Development Group, Inc	Enterprise	AL	MP
Navigator International, LLC		Huntsville	AL	MG
NCG Global	Pulse Media Partners	Litchfield Park	AZ	SG
Nemean Solutions, LLC		Sierra Vista	AZ	MP
NetCentrics	NetCentrics Corporation	Herndon	VA	SP
NetImpact Strategies	NetImpact Strategies, Inc	Herndon	VA	MG
Network Computing Technologies, LLC		McKinney	TX	SG
New Venture Research Corporation	NVRC	Kennesaw	GA	MG
NextEra Energy		Juno Beach	FL	LP
NextGen Federal Systems		Morgantown	WV	MG
Nextgen Technologies, Inc		North Charleston	SC	SG
NextOp		Houston	TX	SP
NextStep Technology		Springfield	VA	MP

Employer name	DBA	City	State/ terr.	Award type
Nighthawk Cyber, LLC		Orlando	FL	SG
Nikcor Learning Group, LLC	Great Horizons Career Centers	Cary	NC	SG
Nisga'a CIOPS		Chantilly	VA	MP
Nisga'a MOSTT		Chantilly	VA	SP
Nisga'a Tek, LLC		Chantilly	VA	MP
Noblis		Reston	VA	LG
Nonprofit Development Corporation		Butler	PA	SG
NorCal Staffing Group, Inc	TangoAlpha3	Austin	TX	SG
North America Mattress Corp	North America Mattress Corp	Clackamas	OR	SG
North American Consulting Services		Point Pleasant	WV	SG
North American Rescue, LLC		Greer	SC	MP
North Wind Solutions, LLC	North Wind Solutions	Richland	WA	MG
Northeast Illinois Regional Commuter Railroad Corporation	Metra	Chicago	IL	LG
Northern Industrial Training, LLC		Palmer	AK	SG
Northstrat Incorporated		Sterling	VA	MG
Northwest Veterans Law		Salem	OR	SP
NTT Global Data Centers Americas, Inc		Sacramento	CA	LG
Nylatech, Inc		Everson	WA	SG
Oak Grove Technologies, LLC		Raleigh	NC	MP
Oak Leaf Solutions, LLC		Leesburg	VA	SG
Oaklea Security Services, LLC	Oaklea Simpson Security	Alexandria	VA	MP
Opera, LLC	Opera, LLC	Herndon	VA	SG
OBXtek Inc		McLean	VA	MP
Offset Strategic Services, LLC		Huntsville	AL	MP
Okaloosa-Walton Jobs and Education Partnership, Inc.	CareerSource Okaloosa Walton	Shalimar	FL	SP
Olympus Solutions, Inc		Daytona Beach	FL	SG
Omega Consultants, Inc	Omega Technical Services, Inc	Oak Ridge	TN	MG
On Time PKGS, LLC		Daytona Beach	FL	MG
On Time Plumbing & Air Corp	Benjamin Franklin Plumbing	Wilmington	NC	SP
Ondadottedline, LLC		Salem	OR	SG
Ondra-Huyett Associates, Inc		Allentown	PA	SP
One Corps, Inc		Carolina	PR	SG
OneZero Solutions, LLC		Alexandria	VA	MG
Open Systems Technologies Corporation	Open Systems Technologies Corporation	Gainesville	VA	MP
Opto-Knowledge Systems, Inc		Torrance	CA	SG
OWT Global, LLC		Tampa	FL	SG
Oxley Enterprises, Inc		Stafford	VA	SG
P-11 Security, Inc		Torrance	CA	SP
Pacific Aerospace Consulting, Inc		San Diego	CA	SG
Pacific Crest Bus Lines: Tac Transportation, Inc	Pacific Crest Bus Lines	Redmond	OR	SG
PanTeXas Deterrence, LLC		Amarillo	TX	LG
Paradigm Max Q, LLC		Arlington	VA	SG
Paragon Cyber Solutions, LLC		Tampa	FL	SP
Paragone Solutions, Inc		McLean	VA	SG
Parsons Corporation		Chantilly	VA	LG
PatchPlus Consulting, Inc		Medford	NJ	MG
Patricio Enterprises, Inc		Stafford	VA	MP
Patriot Products, LLC		Franklin	IN	SG
Patriot Supply Unlimited, Inc	The Patriot Group	Rancho Santa Fe	CA	MG
Patronus Systems, Inc		Melbourne	FL	MP
PavCon, LLC		Latrobe	PA	SG
Penobscot Job Corps Center	Penobscot Job Corps Center	Bangor	ME	MG
PeopleService, Inc		Omaha	NE	MG
PeopleTec, Inc		Huntsville	AL	LG
PERCIVAL, INC	Percival Engineering	Columbia	MD	SP
Peregrine Energy Solutions, LLC		Boulder	CO	SP
Peregrine Technical Solutions		Yorktown	VA	SP
Permuta Technologies, Inc		Vienna	VA	SG
Persistent Systems, LLC		New York	NY	MP
Phase II Staffing and Contracting, LLC		Quantico	VA	SG
PHe Data Center Services		Irving	TX	SG
phia, LLC		Fairfax	VA	MG
Philbrook Construction Services Group, INC		Yarmouth Port	MA	SG
Phillips 66		Houston	TX	LG
Phoenix Air Group, Inc		Cartersville	GA	MP
Phoenix Global Support, LLC		Fayetteville	NC	SP
Phronetik, Inc		Plano	TX	SP
Physician Services USA	Physician Services of SC, LLC	Columbia	SC	MG
PingWind, INC		Annandale	VA	MG
PKL Services, Inc		Poway	CA	MG
PL Consulting, Inc		Great Falls	VA	SG

Employer name	DBA	City	State/ terr.	Award type
Planet Technologies, Inc	Planet Technologies, Inc	Gaithersburg	MD	MG
Planned Systems International, Inc	Planned Systems International, Inc. (PSI)	Columbia	MD	LG
Platform Systems, Inc	Platform Aerospace	Hollywood	MD	MG
Platinum Business Services, LLC	Platinum Business Services, LLC	Cantonsville	MD	MP
Pole Star Space Applications USA, Inc	Pole Star Defense	Saint Petersburg	FL	MG
Posterity Group, LLC	Posterity Group, LLC	Rockville	MD	SG
PowerTrain, Inc		Hyattsville	MD	MP
PPC SOLUTIONS, INC		Spokane Valley	WA	MG
PPT Solutions, Inc		Huntsville	AL	SG
Precise Systems, Inc	Precise Systems	Lexington Park	MD	LG
Precision ISR, LLC		Oviedo	FL	SP
PREFERE MELAMINES, LLC		Indian Orchard	MA	SG
Prevailance, Inc		Virginia Beach	VA	MP
Product Development Associates, Inc	PDA Engineering	Burnsville	MN	MG
Professional Healthcare Associates, Inc	Cavalry Ambulance	Corona	CA	SG
Professional Solutions Delivered, LLC		King George	VA	MP
Programatics, LLC		Alexandria	VA	SP
Project Management Professional Services Corporation.	The PMO Squad	Gilbert	AZ	SP
Prometheus Insight, LLC	Prometheus Insight	Charles Town	WV	SG
Promising People, LLC		Fern Park	FL	SP
ProSync Technology Group		Catonsville	MD	MG
Protection Strategies Incorporated		Knoxville	TN	MP
Provalus		Atlanta	GA	LG
Puget Sound Energy		Bellevue	WA	LG
Qualis LLC		Huntsville	AL	MP
Quality Technology Services, LLC		Overland Park	KS	LG
Quick Services, LLC	QSL	Fayetteville	NC	MP
Quiet Professionals, LLC		Tampa	FL	MP
R3 Strategic Support Group, Inc		San Diego	CA	MG
Radiance Technologies		Huntsville	AL	LG
Rafael Systems Global Sustainment	Rafael Systems Global Sustainment	Reston	VA	SG
Raglan, LLC		Wilmington	NC	SG
RB Consulting, Inc		Frederick	MD	MP
RB Intermodal, LLC		Jackson	TN	SG
Ready Support Services, LLC		Plano	TX	SG
Realized Solutions for Government, LLC	RS4G, LLC	Oakton	VA	SG
REDI Transports	REDI Transports	Green Bay	WI	SG
RedSky, LLC		Aldie	VA	SP
RedTrace Technologies, Inc		Lanham	MD	SP
Redwood Strategy Group, Inc		Aldie	VA	SG
Reed Charters, LLC		Falls Church	VA	SG
Reed Services of Wyoming, Inc		Cheyenne	WY	SG
ReefPoint Group, LLC		Annapolis	MD	MP
Regenesis Biomedical, Inc	Regenesis	Scottsdale	AZ	MG
Reliability & Performance Technologies, LLC	R&P Technologies, LLC	Dublin	PA	MP
RELYANT Global, LLC		Maryville	TN	SG
Renaissance Global Services, LLC		Holmdel	NJ	SP
Render Security Engineering, LLC		California	MD	SG
Renewable Energy Systems, LLC	Renewable Energy Systems	Avilla	IN	SP
Research and Development Solutions, Inc	RDSI	North Kingston	RI	MG
RESULTS Technology, INC		Overland Park	KS	SG
Revolution National Pest Council		Carson	CA	SP
Rhombus Power, Inc		Palo Alto	CA	MG
Ricardo Defense	Ricardo Defense	Troy	MI	MG
Richard Group, LLC	Richard Group, LLC	Chicago	IL	MG
Ridgeline International		Tysons	VA	MP
RightDirection Technology Solutions, LLC	RDTS	Baltimore	MD	MP
Rigid Security Group	Rigid Tactical	Virginia Beach	VA	SP
Riley McGuire Partners, LLC		Louisville	KY	SP
risk3sixty		Roswell	GA	SP
Rite-Solutions, Inc		Middletown	RI	MP
Riverside Research Institute		Fairfax	VA	LG
Roberts & Ryan, Inc		New York	NY	MG
Robinson Consulting Group, LLC	Robinson Consulting Group, LLC	Suitland	MD	SP
Rock Project Management Services, L.L.C		Renton	WA	SP
rockTdata		Philadelphia	PA	MG
Rocky Mountain Hydrostatics, LLC		Henderson	CO	SP
Rolle IT, LLC	Rolle IT	Melbourne	FL	SP
Rollout Systems, LLC		California	MD	MG
Rothe Development, Inc	RDI, Inc	Webster	TX	MG
Rothe Enterprises, Inc	REI, Inc	Webster	TX	MG
Rouxbe Global Food Group	Rouxbe	Totowa	NJ	SG

Employer name	DBA	City	State/ terr.	Award type
RRDS, INC		Irvine	CA	SG
RTI Consulting, LLC		Marshall	VA	SG
RTX	RTX	Arlington	VA	LP
Rubicon Technical Services, LLC		Kennesaw	GA	MP
Ruchman and Associates, Inc		Nottingham	MD	MG
RVET Operating, LLC	RecruitMilitary	Chesapeake	VA	MG
S.B, Inc	Sherman Bros. Heavy Trucking	Harrisburg	OR	MP
Sabey Corporation		Seattle	WA	MG
Sabre Systems, LLC	Sabre Systems, LLC	Warminster	PA	MG
Sacramento Municipal Utility District	SMUD	Sacramento	CA	LG
Safe And Sound Security Systems, Inc		Hinton	WV	SG
Safespill Systems, LLC	Safespill	Houston	TX	MP
Saint-Hilaire Software Labs		Melbourne	FL	SP
Sakom Services WI, LLC		Shawano	WI	SG
SalesHub, LLC	SalesHub, LLC	Marietta	GA	SP
Salience Consulting		McLean	VA	MG
Samsung Austin Semiconductor		Austin	TX	LG
Sancorp Consulting, LLC		McLean	VA	MG
Sandia National Labs	Sandia National Laboratories	Albuquerque	NM	LP
Sarela Technology Solutions, LLC		Leesburg	VA	SG
SATSS, LLC		Chantilly	VA	SG
scDataCom, LLC		Savannah	GA	SP
Science Applications International Corporation (SAIC)	SAIC	Reston	VA	LG
Scientific Research Corporation	Scientific Research Corporation	Atlanta	GA	LG
SDV Construction, Inc		Albuquerque	NM	MP
Seabee Construction		Damascus	OR	SG
SEACORP, LLC		Middletown	RI	LP
Security 1 Solutions, LLC		Ashton	MD	MG
Security Management of SC, LLC	Security Management of SC	Columbia	SC	MG
Semper Fly Helicopters, LLC		Norman	OK	SG
Semper Tek, Inc		Lexington	KY	MG
Semper Valens Solutions, Inc		Canyon Lake	TX	MP
Senspex, Inc		Rio Rancho	NM	MG
Sentar, Inc		Huntsville	AL	MP
Served with Honor	Served with Honor	Austin	TX	MG
Sevan Multi-Site Solutions, Inc		Downers Grove	IL	MP
Seventh Dimension, LLC	Seventh Dimension, LLC	Mocksville	NC	MG
Sharp Decisions, Inc	Sharp Decisions, Inc	New York	NY	MG
Sheep Dog Impact Assistance		Rogers	AR	SG
Sheltered Wings, Inc	Vortex Optics	Barneveld	WI	MP
Sherpa 6, Inc		Littleton	CO	MP
Shield Siding and Renovation		Wright City	MO	SP
SHINE Systems, LLC	SHINE Enterprises, LLC	Luray	VA	MG
Short Powerline Service, LLC		Glenrock	WY	MG
Sierra Management and Technologies, Inc		California	MD	MG
Sierra Nevada Co, LLC	SNC	Sparks	NV	LG
Sierra7, Inc		McLean	VA	MP
Sigma Defense Systems		Perry	GA	LG
Silicon Ranch Corporation		Nashville	TN	MG
Silotech Group, Inc		San Antonio	TX	MP
Silver Mountain Construction, L.L.C		Palmer	AK	SG
SIMCO Electronics		Santa Clara	CA	MG
Simulation Technologies	SimTech, Inc	Huntsville	AL	MP
SITE Staffing, Inc		Milwaukee	WI	MP
Six Maritime, Inc	Six Maritime	San Diego	CA	MG
SkillStorm Commercial Services, LLC		Jacksonville	FL	MP
SkyBridge Tactical, LLC		Tampa	FL	MP
Smoothstack, Inc	Smoothstack	McLean	VA	MG
SMS Data Products Group, Inc		McLean	VA	LG
SNVC, LC		Herndon	VA	SP
SOFact Solutions		Fayetteville	NC	MG
Sol-Ark, LLC		Allen	TX	MG
Soluna Holdings, Inc	Soluna	Albany	NY	SG
Solution One Industries, Inc		Killeen	TX	MG
Solutions for Information Design, Inc	SOLID	Fairfax Station	VA	SG
Sonalysts, Inc		Waterford	CT	MP
SourceAmerica, LLC	SourceAmerica	Vienna	VA	MG
South Central Workforce Development Board		Bowling Green	KY	SG
South River Federal Solutions, LLC	SRFed	Edgewater	MD	SP
Southeast Primary Care Partners	Southeast Primary Care Partners	Alpharetta	GA	LG
Southern Company	Southern Company	Atlanta	GA	LG
Spathe Systems, LLC		Tampa	FL	MG

Employer name	DBA	City	State/ terr.	Award type
Spectral Labs Incorporated	Spectral Labs Incorporated	San Diego	CA	SG
Spees, LLC	Spees Design Build	Kent	WA	SP
Stanadyne Operating, LLC		Jacksonville	NC	MP
Star V Corporate Training, LLC	Star V Learning Centers	Jacksonville	FL	SG
Stay at Home Homecare, LLC	STAY At Home HomeCare, LLC	Philadelphia	PA	MG
Steel Point Solutions, LLC		Calverton	MD	SG
SteerBridge		Vienna	VA	MP
Stellar Solutions	Stellar Solutions, Inc	Los Altos	CA	MG
STEMBoard, LLC		Arlington	VA	SG
Still Serving Veterans		Huntsville	AL	SP
Stone Group Architects		Sioux Falls	SD	SG
StraCon Services Group, LLC		Benbrook	TX	MG
Strata-G, LLC		Knoxville	TN	MP
Strategic Alliance Business Group, LLC		Fairfax	VA	MP
Strategic Management Solutions, LLC		Albuquerque	NM	SG
Streamline Defense, LLC		Tampa	FL	SP
Sumaria Systems, LLC		Peabody	MA	MG
Summit 7 Systems, LLC	Summit 7 Systems, LLC	Huntsville	AL	MP
Summit Exercises and Training	Summit Exercises and Training, LLC	St. Petersburg	FL	SG
Summit Line Construction		Heber City	UT	MG
SupplyCore		Rockford	IL	MG
Support The Enlisted Project, Inc	STEP	San Diego	CA	SG
SURVICE Engineering Company, LLC		Belcamp	MD	MP
Survival Systems USA, Inc		Groton	CT	SG
Synack, Inc	Synack, Inc	Redwood City	CA	MG
Syndetix		Las Cruces	NM	SG
Syntelligent Analytic Solutions, LLC		Falls Church	VA	MP
Sysmex America, Inc	Sysmex America, Inc	Lincolnshire	IL	LG
System Studies & Simulations, Inc		Huntsville	AL	LP
Systems Planning & Analysis		Alexandria	VA	LG
Systems Products and Solutions, Inc		Huntsville	AL	MG
Systems Technology & Research, Inc		Huntsville	AL	SP
T and T Consulting Services, Inc		Falls Church	VA	MP
T2S, LLC		Belcamp	MD	MP
T3i, Inc		San Antonio	TX	MG
TAC Industries, Inc	The Abilities Connection	Springfield	OH	MG
Tactical Engineering & Analysis, Inc		San Diego	CA	MG
Tactical Rehabilitation, Inc	Tactical Rehabilitation, Inc	Jacksonville	NC	SP
Tactical Training Center, LLC	TTC, LLC	Flemington	NJ	SG
Taku Health Services, LLC		Herndon	VA	MP
Tangent Technologies, LLC		McLean	VA	SG
Target Media Mid Atlantic, Inc	Target Systems	Mechanicsburg	PA	MG
Team Carney, Inc		Alexandria	VA	MP
Team Cymru, Inc		Lake Mary	FL	MG
TeamWorx Security, Inc		Columbia	MD	SG
Tech-Marine Business, Inc., (TMB)		Washington	DC	MG
Technical Assent, LLC		Arlington	VA	MG
Technical Systems Integration, Inc		Williamsburg	VA	MG
Technology Security Associates, Inc	TSA	California	MD	MG
TechOp Solutions International, Inc	TechOp Solutions	Stafford	VA	SP
Tekmanagement		Medford	OR	SP
Tetrad Digital Integrity, LLC	Tetrad Digital Integrity, LLC	Washington	DC	MG
Texas Tribal Buffalo Project		Waelder	TX	SG
The American Tank & Fabricating Company	AT&F	Cleveland	OH	MG
The Construction Services Group, Inc	Construction Services Group, Inc	Charleston	SC	SP
The Electronic On-Ramp, Inc	EOR	Hot Springs	VA	SP
The Greentree Group		Beavercreek	OH	MP
The Intellekt Group, LLC	The Intellekt Group	San Antonio	TX	MG
The Intelligence and Security Advisors, LLC	"The Intelligence and Security Academy" and "ISA".	Arlington	VA	MP
The Lockwood Group, LLC		Belcamp	MD	SG
The McHenry Management Group	TMMG	Chesapeake	VA	MG
The Podmilsak Group, Inc	PGTEK	Ashburn	VA	MP
The Rockhill Group, Inc		Molino	FL	MG
The Ross Group Construction Corporation, LLC	Tulsa	OK	MG	
The Winvale Group, LLC		Richmond	VA	SG
The Wolverine Group		Washington	DC	SG
Thick But Fit Crew, LLC		East McKeesport	PA	SG
ThinkTek, LLC		Fairfax	VA	SG
THMG, Inc	The Garrett Group	Bellevue	NE	MG
Thrust Tech Accessories	Thrust Tech Aviation	Ft. Lauderdale	FL	SG
TISTA Science & Technology		Rockville	MD	LG
Titan Associates Group Incorporated		ATHENS	TN	SG

Employer name	DBA	City	State/ terr.	Award type
TM3 Solutions, Inc .....	.....	Alexandria	VA	SP
Tokyo Electron Us Holdings, Inc .....	.....	Austin	TX	LP
Topsarge Business Solutions .....	.....	Temple	TX	MP
Torden, LLC	Torden, LLC	Tiverton	RI	MP
TorrNetTechnology .....	.....	Lacey	WA	SG
Total Systems Technologies Corporation .....	.....	Arlington	VA	SP
Totally Joined For Achieving Collaborative Tech- niques.	TJFACT	Atlanta	GA	SG
TQI Solutions, Inc .....	.....	Chesapeake	VA	MP
Trade Training Company	Sonoran Desert Institute	Tempe	AZ	MG
Training, Rehabilitation, & Development, Institute Inc.	San Antonio	TX	LG	
Transmission Distribution Service	TDS Construction	Glenrock	WY	SP
TREALITY SVS, LLC .....	.....	Xenia	OH	SG
Treaty Oak Law Group	Treaty Oak Employers' Law Group	Austin	TX	SG
TRECIG, LLC .....	.....	Rockwall	TX	SP
Trewon Technologies, LLC	Trewon Technologies, LLC	Leesburg	VA	MP
T-Rex Solutions, LLC .....	.....	Bethesda	MD	MP
TRIDENT 11, LLC .....	.....	Tulsa	OK	SG
Trident Analytical Solutions, Inc	Trident Proposal Management, Inc	Encinitas	CA	SP
Trident Technologies and Consulting—Global, LLC.	T2C-Global	Wesley Chapel	FL	SG
Trideum Corporation .....	.....	Huntsville	AL	MP
Tri-Logistics, LLC	Tri-Logistics, LLC	Largo	MD	SG
Trinity Information Technology, LLC .....	.....	Yardley	PA	SG
TRISTAR .....	.....	Bloomington	IN	MG
Trust Consulting Services .....	.....	Washington	DC	MG
TruView BSI, LLC .....	.....	Melville	NY	MG
Truweather Solutions, Inc .....	.....	Albany	NY	SG
Twin Raven Studios, Inc .....	.....	Windsor	WI	SP
Two Hawk Employment Services, LLC	Two Hawk Employment Services, LLC	Lumberton	NC	SG
Umpqua Family Therapy, LLC	Umpqua Family Therapy	Roseburg	OR	SG
Undivided Labor, LLC	Flooring Inspirations	Roanoke	TX	SG
United Brotherhood of Carpenters—UBC MVP .....	.....	Washington	DC	MP
United Veterans Construction and Landscape So- lutions, Inc.	Fort Worth	TX	SG	
Universal Strategy Group Incorporated .....	.....	Franklin	TN	MG
Universal Technical Resource Services, Inc .....	.....	Marlton	NJ	MP
Universal Thin Film Lab Corporation .....	.....	Newburgh	NY	SP
US Communications and Electric, Inc	US Communications and Electric, Inc	Garfield Heights	OH	MG
US Foods .....	.....	Rosemont	IL	LG
USA Environmental, Inc	USA Environmental, Inc	Oldsmar	FL	MG
USfalcon, Inc	USfalcon, Inc	Cary	NC	MG
Utah State University Space Dynamics Labora- tory.	Logan	UT	LG	
Utility Mapping Services, P.C	Utility Mapping Services, P.C	Clancy	MT	SG
UXO ACADEMY OF BOMBS AND BULLETS GUAM, LLC.	B.N.B	Barrigada	GU	SG
VA Wholesale Mortgage, Inc .....	.....	Virginia Beach	VA	SG
Vali, Inc .....	.....	Huntsville	AL	MP
Valor Network, Inc .....	.....	Glassboro	NJ	SG
VANTAGE POINT CONSULTING, INC .....	.....	West Linn	OR	SG
Vaultes, LLC	Vaultes, LLC	Reston	VA	SG
Veritech, LLC .....	.....	Aberdeen	MD	SG
Verium, LLC .....	.....	Owings	MD	SG
Veterans Alliance .....	.....	Stateline	NV	SG
Veterans Assistance Commission of Cook County	Veterans Assistance Commission of Cook County.	Chicago	IL	SP
Veterans Assistance Commission of Lake County	Veterans Assistance Commission of Lake Coun- ty.	Gurnee	IL	SG
Veterans Bridge Home, Inc .....	.....	Charlotte	NC	SP
Veterans Guardian VA Claim Consulting	Veterans Guardian VA Claim Consulting	Pinehurst	NC	MP
Veterans, Inc .....	.....	Worcester	MA	MP
Veterans Lighting, Inc	Veterans Electrical Solutions	Peachtree Corners	GA	SP
Veterans Management Services, Inc	VMSI	Sterling	VA	MP
Veterans Medical Distributors, Inc .....	.....	Jupiter	FL	SG
Veterans Medical Supply, Inc .....	.....	St. Petersburg	FL	SG
Veterans Mortgage of America, Inc .....	.....	Dallas	TX	SG
Veterans Outreach Center, Inc .....	.....	Rochester	NY	MG
Veterans Trading Company, Inc .....	.....	Salt Lake City	UT	MG
VetJobs .....	.....	Fort Myers	FL	MP
VetsEZ .....	.....	San Diego	CA	MG
ViaPath Technologies	Global Tel*Link	Falls Church	VA	LP

Employer name	DBA	City	State/ terr.	Award type
Viasat, Inc	Viasat, Inc	Carlsbad	CA	LG
Victory Solutions .....	.....	Huntsville	AL	MP
Vietnam Veterans Workshop, Inc	New England Center and Home for Veterans	Boston	MA	MG
Village of Hanover Park .....	.....	Hanover Park	IL	MG
Virtual Service Operations .....	.....	Manassas	VA	MG
VISTA Technology Services, Inc .....	.....	Arlington	VA	MG
W R Systems, Ltd .....	.....	Fairfax	VA	MG
Walsingham Group, Inc .....	.....	Fayetteville	NC	SP
WarCollar Industries, LLC	WarCollar Industries, LLC	Reston	VA	MP
Ward Circle Strategies .....	.....	Washington	DC	SG
Warrior Service Company	Warrior Service Company	Palm Springs	FL	MG
Waterdogs SCUBA and Safety, LLC .....	.....	Clarksville	TN	SP
Watermark Risk Management International, LLC	Watermark Risk Management	Triangle	VA	MP
Watershed Security, LLC .....	.....	Chesapeake	VA	SP
Watteredge, LLC .....	.....	Avon Lake	OH	MG
WEL Companies, Inc .....	.....	DePere	WI	MG
Wildcat Cranes, Inc .....	.....	Fort Worth	TX	SG
William C. Brown, Inc .....	.....	Manassas	VA	SP
Williams Creek Management Corporation .....	.....	Plainfield	IN	MG
Willis Mechanical, Inc .....	.....	Norcross	GA	SP
Windstream Holdings .....	.....	Little Rock	AR	LP
Women In Military Service For America Memorial	Military Women's Memorial Foundation	Arlington	VA	SG
Wounded Warrior Project	Wounded Warrior Project	Jacksonville	FL	LG
XCEL Engineering, Inc	XCEL	Briceville	TN	SP
Xynergie Corp .....	.....	Gurabo	PR	SG
Zeido Technologies, LLC .....	.....	Manassas	VA	SG
Zero Point, Incorporated	Zero Point Incorporated	Virginia Beach	VA	MG

Dated: March 6, 2026.

Jeremiah Workman,

Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2026-04653 Filed 3-9-26; 8:45 am]

BILLING CODE 4510-79-P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Institutional Advancement, Delivery of Legal Services, and Operations and Regulations committees of the Legal Services Corporation (LSC) Board of Directors will meet on March 16, March 18, and March 19, 2026, respectively. The Institutional Advancement Committee meeting will begin on March 16 at 4:00 p.m. Eastern Time. The Delivery of Legal Services Committee meeting will begin on March 18 at 3:30 p.m. Eastern Time. The Operations and Regulations Committee meeting will begin on March 19 at 10:00 a.m. Eastern Time. Each meeting will continue until the conclusion of the Committee's agenda.

PLACE: Public Notice of Virtual Meeting. LSC will conduct its March 16, March 18, and March 19, 2026, meetings virtually via videoconference.

Public Observation: Unless otherwise noted herein, the committee meetings will be open to public observation via LSC's YouTube channel: [https://](https://www.youtube.com/@LegalServicesCorp/streams)

www.youtube.com/@LegalServicesCorp/streams.

STATUS: Open, except as noted below.

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to consider and act on the approval of invitees to the Leaders Council and Emerging Leaders Council.

Delivery of Legal Services Committee—Open.

Operations and Regulations Committee—Open.

Any portion of the closed sessions consisting solely of briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session.

A verbatim written transcript will be made of the closed session of the Institutional Advancement Committee. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), (7), (9) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Meeting Schedule

1. Monday, March 16, 2026—
Institutional Advancement Committee Meeting

Start Time—4:00 p.m. ET

a. Matters to be discussed include a Chairman's Report and update on the Leaders Council and Emerging Leaders Council; a development update; privately funded project highlights; and a strategic communications and social media update.

2. Wednesday, March 18, 2026—
Delivery of Legal Services Committee Meeting

Start Time—3:30 p.m. ET

a. Matters to be discussed include an update on LSC's learning management system for grant recipient staff and board members; an update on Performance Criteria 1 and 3; a presentation on LSC grantee oversight and compliance; and comments from the Client Leadership Council.

3. Thursday, March 19, 2026—
Operations and Regulations Committee Meeting

Start Time—10:00 a.m. ET

a. Matters to be discussed include considering and acting on the 2026–2027 regulatory agenda; and considering and acting on the notice of proposed rulemaking for 45 CFR parts 1630—Cost Standards and Procedures and 1631—Purchasing and Property Management.

CONTACT PERSON FOR MORE INFORMATION: Kimberly Little, Board and Executive Coordinator, at (202) 295-1500. Questions may also be sent by electronic mail to the Office of the Corporate Secretary at updates@lsc.gov.

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at <https://www.lsc.gov/about-lsc/board-meeting-materials>.

(Authority: 5 U.S.C. 552b.)

Dated: March 5, 2026.

Stefanie Davis,

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2026-04634 Filed 3-6-26; 11:15 am]

BILLING CODE 7050-01-P

LEGAL SERVICES CORPORATION

Notice of Funding Availability and Request for Proposals for Calendar Year 2027 Basic Field Grant Awards

AGENCY: Legal Services Corporation.

ACTION: Notice of funding availability.

SUMMARY: The Legal Services Corporation (LSC) is a federally established and funded organization that funds civil legal aid organizations across the country and in the U.S. territories. Its mission is to expand access to justice by funding high-quality legal representation for low-income people in civil matters.

In anticipation of a congressional appropriation to LSC for Fiscal Year 2027, LSC hereby announces the availability of funding for basic field grants with terms commencing in January 2027. LSC will publish a Request for Proposals (RFP) and seeks applications from interested parties who are qualified to provide effective, efficient, and high-quality civil legal services to eligible clients in the service area(s) of the states and territories identified below. The availability and the exact amount of congressionally appropriated funds, as well as the date, terms, and conditions of funds available for grants for calendar year 2027, have not yet been determined.

DATES: See **SUPPLEMENTARY INFORMATION** section below for grant application dates.

ADDRESSES: By email to lscgrants@lsc.gov or by other correspondence to Legal Services Corporation—Basic Field Grant Awards, 1825 I Street NW, Eighth Floor, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Christine Williams by phone at 202-

295-1602 or email at lscgrants@lsc.gov, or visit the LSC website at <https://www.lsc.gov/grants/basic-field-grant>.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) hereby announces the availability of funding for basic field grants with terms beginning in January 2027. LSC seeks grant proposals from interested parties who are qualified to provide effective, efficient, and high-quality civil legal services to eligible clients in the service area(s) of the states and territories identified below. Interested potential applicants must first file a Pre-Application. After approval by LSC of the Pre-Application, an applicant can submit an application in response to the RFP, which contains the grant proposal guidelines, proposal content requirements, and selection criteria. The Pre-Application and RFP will open in GrantEase, LSC's grants management system, on or around April 13, 2026. Additional information will be available at <https://www.lsc.gov/grants/basic-field-grant>.

The listing of all key dates for LSC's 2027 basic field grant process, including the deadlines for filing grant proposals, is available at <https://www.lsc.gov/grants/basic-field-grant/how-apply-basic-field-grant/basic-field-grant-key-dates>.

LSC seeks proposals from: (1) non-profit organizations that have as a purpose the provision of legal assistance to eligible clients; (2) private attorneys; (3) groups of private attorneys or law firms; (4) state or local governments; and (5) sub-state regional planning and coordination agencies that are composed of sub-state areas and whose governing boards are controlled by locally elected officials.

The service areas for which LSC is requesting grant proposals for calendar year 2027 are listed below. LSC provides grants for three types of service areas: Basic Field-General, Basic Field-Native American, and Basic Field-Agricultural Worker. For example, the state of Idaho has three basic field service areas: ID-1 (General), NID-1 (Native American), and MID (Agricultural Worker). Service area descriptions are available at <https://www.lsc.gov/grants/basic-field-grant/lsc-service-areas>. LSC will post all updates and changes to this notice at <https://www.lsc.gov/grants/basic-field-grant/lsc-service-areas>. Interested parties can visit <https://www.lsc.gov/grants/basic-field-grant> or reach out to lscgrants@lsc.gov.

State or territory	Service area(s)
Alaska	AK-1, NAK-1.

State or territory	Service area(s)
Arizona	AZ-2, NAZ-5.
California	MCA, CA-14, CA-31.
Connecticut	NCT-1.
Delaware	DE-1.
Idaho	MID, ID-1, NID-1.
Iowa	MIA, IA-3.
Kansas	KS-1.
Kentucky	KY-5.
Maine	MMX-1, ME-1, NME-1.
Michigan	MI-13, MI-14.
Minnesota	NMN-1.
Nebraska	MNE, NE-4, NNE-1.
Nevada	NV-1, NNV-1.
New Jersey	MNJ, NJ-8, NJ-15, NJ-17, NJ-18, NJ-20.
New Mexico	NM-1, NNM-2.
Ohio	OH-24.
Oregon	MOR, OR-6, NOR-1.
Pennsylvania	PA-25, PA-27.
Rhode Island	RI-1.
South Dakota	SD-4, NSD-1.
Tennessee	TN-4.
Texas	TX-14.
Utah	MUT, UT-1, NUT-1.
Vermont	VT-1.
Virgin Islands	VI-1.
Virginia	MVA, VA-15, VA-16, VA-18.
Washington	MWA, WA-1, NWA-1.
Wisconsin	WI-2, NWI-1.

(Authority: 42 U.S.C. 2996g(e).)

Dated: March 6, 2026.

Stefanie Davis

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2026-04666 Filed 3-9-26; 8:45 am]

BILLING CODE 7050-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Request: IMLS Grants to States Program "State Reporting System"

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation 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 purpose of this Notice is to solicit comments related to the IMLS Grants to States Program “State Reporting System.” A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before May 09, 2026.

ADDRESSES: Send comments to Sandra Narva, Acting Director of Grants Management, Office of Grants Management, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N-3627, Washington, DC 20210. Ms. Narva can be reached by telephone: 202-653-4634 or by email at snarva@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Teri DeVoe, Associate Deputy Director for Grants to States, Office of Library Services, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N-3627, Washington, DC 20210. Ms. DeVoe can be reached by telephone at 202-653-4778, or by email at tdevoe@imls.gov.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

I. Background

IMLS is the primary source of federal support for the Nation’s libraries and museums. The agency advances, supports, and empowers America’s museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

II. Current Actions

This Notice proposes the clearance of the IMLS Grants to States Program “State Reporting System.” The Grants to States program is the largest source of Federal funding support for library services in the U.S. Using a population-based formula, approximately \$180 million is distributed among the State Library Administrative Agencies (SLAAs) every year. SLAAs are official agencies charged by the Library Services and Technology Act (20 U.S.C. 9121 and 20 U.S.C. 9141) with the extension and development of library services, and they are located in:

- Each of the 50 States of the United States, and the District of Columbia;
- The territories (Guam, American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands); and
- The Freely Associated States (Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands).

Under 20 U.S.C § 9134, each SLAA is required to submit a plan that details library services goals for a five-year period, along with associated certifications. Pursuant to 20 U.S.C. 9134(c), each SLAA that receives an IMLS grant under the Grants to States program is required to evaluate and report on all funded project activities to the agency, prior to the end of the execution of its five-year plan. Each SLAA receives IMLS funding to support activities for the five-year period through a series of overlapping two-year grant awards. Each SLAA must file interim and final financial reports, and final performance reports for each of these two-year grants through IMLS’s State Program Report (SPR) system.

Agency: Institute of Museum and Library Services.

Title: IMLS Grants to States Program “State Reporting System.”

OMB Number: 3137-0071.

Agency Number: 3137.

Respondents/Affected Public: State and Territory Library Administrative Agencies.

Total Estimated Number of Annual Respondents: 59.

Frequency of Response: Annually for the State Program Report, once every five years for the embedded Site Visit Checklist.

Estimated Average Burden per Response: 47.83 hours for the State Program Report (annually), 20 hours for the embedded Site Visit Checklist (once every five years).

Total Estimated Number of Annual Burden Hours: 3,058.

Total Annual Cost Burden: \$101,708.

Total Annual Federal Costs: \$42,471.

Public Comments Invited: Comments submitted in response to this Notice will be summarized and/or included in the request for OMB’s clearance of this information collection.

Dated: March 4, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026-04658 Filed 3-9-26; 8:45 am]

BILLING CODE 7036-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36002; 812-15948]

Japan Smaller Capitalization Fund, Inc. and Nomura Asset Management U.S.A. Inc.

March 6, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from section 19(b) of the Act and rule 19b-1 under the Act to permit registered closed-end investment companies to make periodic distributions of long-term capital gains more frequently than permitted by section 19(b) or rule 19b-1.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to pay as frequently as twelve times in any one taxable year in respect of its common stock and as often as specified by, or determined in accordance with the terms of, any preferred stock issued by the investment company subject to the terms and conditions stated in the application.

APPLICANTS: Japan Smaller Capitalization Fund, Inc. and Nomura Asset Management U.S.A. Inc.

FILING DATES: The application was filed on December 4, 2025, and amended on December 17, 2025 and February 23, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is

listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m. Eastern time on March 31, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Nathan J. Greene, Sidley Austin LLP, *ngreene@sidley.com*, with a copy to Neil Daniele, C/O Japan Smaller Capitalization Fund, Inc., Worldwide Plaza, 309 West 49th Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ amended application, dated February 23, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–04656 Filed 3–9–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104932; File No. SR–OCC–2026–002]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Options Clearing Corporation Concerning Modifications to Its Clearing Membership Forms

March 5, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on February 23, 2026, The Options Clearing Corporation (“OCC” or “Corporation”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and paragraph (f) or Rule 19b–4⁴ thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would withdraw as rule text: the Clearing Member Application, Letter of Authorization, Clearing Member Agreement, Non-U.S. Clearing Member Agreement (together with the Clearing Member Agreement, the “Clearing Member Agreements”), Authorized Signatory Certificate, Agreement for OCC Services, and, as identified further in the proposed rule change, various Appointment Forms and Product-Specific and Account-Specific Forms (collectively, the “Clearing Membership Forms”). As explained in its filing, OCC considers the Clearing Membership Forms to be forms to be used in connection with the implementation and operation of the proposed rule change, rather than rules themselves.

In connection with this proposed change, OCC also proposes to make certain other changes to OCC Rules related to the Clearing Membership Forms, including (i) to amend OCC Rule

204 to add a new paragraph (h) that would require, as a condition to admission, that each applicant for clearing membership and each Clearing Member sign and deliver to the Corporation such instruments in writing as the Corporation may require from time to time depending on the services that the applicant or Clearing Member selects; and (ii) in connection with OCC’s proposal to withdraw the Participating Escrow Bank Agreement as one of the Account-Specific Forms, to amend Rule 610C to clarify that OCC’s standard for establishing relationships with an escrow deposit bank is the same as those for Clearing Bank relationships under OCC Rule 206. Other than the proposed amendments to OCC Rule 204, the proposed rule change would not alter any of the requirements for initial or continued OCC clearing membership.

OCC filed proposed changes to OCC Rules 204 and 610C as Exhibit 5a, and the text of the Clearing Membership Forms as Exhibits 5b through 5v to File No. SR–OCC–2026–002, respectively. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text.

The proposed rule change does not require any other changes to the text of OCC’s By-Laws or Rules. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁵

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC provides clearing services for options on equities,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f).

⁵ OCC’s By-Laws and Rules can be found on OCC’s public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

indices, Exchange Traded Funds (“ETFs”), for certain transactions in futures and options on futures, and for certain stock loan transactions. Organizations become OCC Clearing Members to facilitate the clearing and settlement of their customer transactions or proprietary transactions through OCC. More specifically, in its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). OCC maintains various agreements, applications, forms, and letters that are used in connection with onboarding applicants for Clearing Membership and are part of the legal foundation for OCC’s relationship with each Clearing Member and the services that OCC provides. The Clearing Membership Forms are forms for Clearing Members (1) to provide information to OCC required under OCC’s By-Laws and Rules; (2) to acknowledge agreement with certain requirements or provide affirmations or representations required under OCC’s By-Laws and Rules; or (3) to provide a legal foundation for services OCC performs outside of the By-Laws and Rules.

Specifically, the Clearing Membership Forms include documents that fall within the following general categories:

(1) *Clearing Member Application* used by applicants to identify for OCC an applicant’s qualifications that make it eligible to become a Clearing Member at OCC;

(2) *Clearing Member Agreements* that establish the contractual agreement between OCC and a Clearing Member, the material terms of which are already codified in existing OCC Rule 204(b);

(3) *OCC Services Agreement*, which provides the terms and conditions related to certain ancillary services that Clearing Members may elect to receive in addition to those normally provided by OCC under its By-Laws and Rules, such as internet and data distribution services;

(4) *Appointment Forms*, which permit Clearing Members that are not participants in the National Securities Clearing Corporation (“NSCC”) or, in the case of Canadian Clearing Members not participants in the Depository Trust Company (“DTC”), to effect settlement of physically settled equity options or settlement of stock loan transactions, respectively, through appointment of another Clearing Member or, in the case of Canadian Clearing Members through appointment of the Canadian Depository

for Securities (“CDS”), as its agent with respect to settlement of the relevant products; and

(5) *Product-Specific Forms and Account-Specific Forms* that facilitate a Clearing Member’s ability to clear certain products or allow a Clearing Member or OCC to establish certain types of accounts. These forms include those for applicants and Clearing Members (1) to provide information related to the status of their membership at NSCC (for purposes of settling exercise and assignment activity for physically settled equity options), DTC (for purposes of OCC’s Stock Loan Programs), and FICC (for purposes of physically settled Treasury options, which are not currently listed by any participant exchange); (2) to establish a Joint Back Office (“JBO”) Participant’s Account; (3) to identify custody bank information for purposes of delivering Government securities as margin collateral or Clearing Fund deposits; and (4) to establish and maintain escrow deposits in a participating escrow deposit bank.

In connection with a comprehensive review of the Clearing Membership Forms in 2014, OCC first filed the Clearing Membership Forms as rules, as revised to (i) reduce the number of documents by eliminating outdated documents and combining similar documents, (ii) reflect OCC’s then-current business and operational processes; and (iii) reflect changes in applicable law and conform the documents to OCC’s then-current By-Laws and Rules.⁶ In 2016, OCC filed certain other Account-Specific Forms related to OCC’s Escrow Deposit Program.⁷ In 2024, OCC filed a proposed rule change to, among other things, make certain changes to the Appointment Forms to reflect the industry transition to a T+1 settlement cycle for the delivery of underlying securities.⁸ In February 2025, OCC filed an immediately effective rule change with the Commission to, among other things, amend its Clearing Member Agreements to include eligible banks as a membership category to align the categories in these agreements with those set out in existing OCC Rule 201.⁹ In August 2025, OCC again filed an

immediately effective rule change with the Commission to remove the Officer’s Certificate and signature block in their entirety from the rule-filed text of the Clearing Member Agreements so that those means of executing the Clearing Member Agreements could be updated based on the internal governance of and law applicable to different types of Clearing Members, such as banks.¹⁰

Proposed Changes

The Clearing Membership Forms Do Not Constitute Rules of OCC

Notwithstanding their previous inclusion in rule text filed with the Commission, OCC does not consider the Clearing Membership Forms to be rules of the clearing agency. The Exchange Act defines the term “rules of a clearing agency” to mean the constitution, articles of incorporation, by-laws, and rules, or instruments corresponding to the foregoing, of a clearing agency and such of the stated policies, practices, and interpretations of such clearing agency as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors.¹¹ Rule 19b–4 thereunder defines the term “stated policy, practice or interpretation” to mean, in part: (i) any material aspects of the operation of the facilities of the SRO; or (ii) any statement made generally available to the membership of, to all participants in, or to persons having or seeking access to facilities of the SRO (“specified persons”), that establishes or changes any standard, limit or guideline with respect to (A) the rights, obligations, or privileges of specified persons or persons associated with specified persons, or (B) the meaning, administration, or enforcement of an existing rule.¹² However, Rule 19b–4 exempts a stated policy, practice, or interpretation of an SRO from being deemed a proposed rule change if it is reasonably and fairly implied by an existing rule of the SRO, among other reasons.¹³ For the reasons discussed below, OCC believes that the Clearing Membership Forms do not fall within these definitions or are subject to the above-referenced exception.

(1) *Clearing Member Application*.¹⁴ The Clearing Member Application is a form used by an applicant for clearing membership to provide information to

⁶ See Exchange Act Release No. 73577 (Nov. 12, 2014), 79 FR 68733 (Nov. 18, 2014) (SR–OCC–2014–20).

⁷ See Exchange Act Release No. 79094 (Oct. 13, 2016), 81 FR 72129 (Oct. 19, 2016) (SR–OCC–2016–009).

⁸ See Exchange Act Release No. 99701 (Mar. 8, 2024), 89 FR 18685, 18685 n.10 and accompanying text (Mar. 14, 2024) (SR–OCC–2024–002).

⁹ See Exchange Act Release No. 102522 (Mar. 5, 2025), 90 FR 11770 (Mar. 11, 2025) (SR–OCC–2025–003).

¹⁰ See Exchange Act Release No. 103779 (Aug. 26, 2025), 90 FR 42289 (Aug. 29, 2025) (SR–OCC–2025–012).

¹¹ See 15 U.S.C. 78c(a)(27).

¹² 17 CFR 240.19b–4(a)(6).

¹³ 17 CFR 240.19b–4(c).

¹⁴ OCC has filed the Clearing Member Application, as proposed to be amended, as Exhibit 3a to File No. SR–OCC–2026–002.

OCC to demonstrate that it meets the minimum requirements for clearing membership set forth in Chapters II and III of OCC's Rules. In particular, OCC Rule 203 provides that "applications for clearing membership must be in such form and contain such information as [OCC] will from time to time prescribe."¹⁵ The Clearing Member Application does not establish or change any standard, limit or guidelines with respect to the rights, obligations or privileges of Clearing Members or applicants for clearing membership or the meaning, administration or enforcement of those Rules. Any changes to the membership standards outlined in Chapter II and III of OCC's Rules would require a proposed rule change to amend.¹⁶

The Clearing Membership Forms also include a Letter of Authorization¹⁷ to be signed and delivered to OCC by which an applicant for Clearing Membership authorizes the applicant's regulators to communicate directly with OCC concerning the applicant. This letter was designed to facilitate OCC's prior practice of inquiring with the applicant's Designated Examining Authority whether it objected to OCC admitting the applicant for membership, as well as for OCC to obtain information from an applicant's regulator about any potential violations of law, financial requirements, or the occurrence of any material operational difficulties. However, in 2023, OCC amended its membership standards to remove the process under its By-Laws by which OCC requested a no-objection from the applicant's Designated Examining Authority.¹⁸ In addition, OCC requires Clearing Members and applicants for membership to inform OCC if it is subject to a statutory disqualification, early warning notice, or equivalent.¹⁹ As such, OCC does not believe the Letter of Authorization is currently relevant to OCC's current membership application process and proposes to withdraw it from OCC's rules in its entirety.

¹⁵ OCC Rule 203(a), *supra* note 5.

¹⁶ See, e.g., Order Granting Approval of Proposed Rule Change by the Options Clearing Corporation Concerning the Amendment of its Clearing Membership Standards, Exchange Act Release No. 97439 (May 5, 2023), 88 FR 30373 (May 11, 2023) (SR-OCC-2023-002) ("Clearing Membership Standards").

¹⁷ OCC has filed the Letter of Authorization, as proposed to be amended, as Exhibit 3c to File No. SR-OCC-2026-002.

¹⁸ See Exchange Act Release No. 97150 (Mar. 15, 2023), 88 FR 17046, 17051 (Mar. 21, 2023) (SR-OCC-2023-002).

¹⁹ See, e.g., OCC Rules 204(c), 306A(a), 306A(a)(5)(C)-(D), & 306A, I&P .01(c).

(2) *Clearing Member Agreements.*²⁰ The Clearing Member Agreements are the forms used by applicants and Clearing Members to satisfy the requirements of OCC Rule 204(b). In relevant part, OCC Rule 204(b) requires an applicant for clearing membership to sign and delivered to OCC "an agreement in such form as the Corporation will require," wherein the Clearing Member must acknowledge the agreements set forth in subparagraphs (1) through (10) to OCC Rule 204(b). The Clearing Member Agreements are a form for Clearing Members to acknowledge those agreements. Accordingly, regardless of whether the Clearing Member Agreements would otherwise fall within the scope of a stated policy, practice or interpretation under Exchange Act Rule 19b-4(a)(6),²¹ the Clearing Member Agreements themselves are reasonably and fairly implied by existing OCC Rule 204(b). As such, while any change to existing OCC Rule 204(b) would require a proposed rule change, the Clearing Member Agreements themselves are not deemed to be a proposed rule change under Exchange Act Rule 19b-4(c).²²

The Clearing Membership Forms also contain other forms and authorizations to be used by Clearing Members to facilitate compliance with OCC's Rules and OCC's authority to perform certain critical functions. OCC believes these forms²³ are also reasonably and fairly implied by existing OCC rules:

- The Notice of Name change is a form for a Clearing Member to provide notification of changes in its name, in accordance with and as reasonably and fairly implied by Interpretation and Policy ("I&P") .01(b)(1)(D) of OCC Rule 306A.
- The Authorization to Draft Clearing Member Accounts provides the Clearing Member's acknowledgment of OCC's authority to debit the Clearing Member's accounts in accordance with and as reasonably and fairly implied by OCC's rules including, but not limited, OCC Rules 210(b), 502, 504(c), and 605.
- The Authorized Signatory Certificate is a form for Clearing Members to identify authorized signatories for purposes of agreements and other papers necessary for conducting business with OCC, in

²⁰ OCC has filed the Clearing Member Agreements, as proposed to be amended, as Exhibits 3d and 3e, respectively, to File No. SR-OCC-2026-002.

²¹ 17 CFR 240.19b-4(a)(6).

²² 17 CFR 240.19b-4(c).

²³ OCC has filed the referenced forms, as proposed to be amended, as Exhibits 3b, 3f, 3g, 3h, and 3i, respectively, to File No. SR-OCC-2026-002.

accordance with and as reasonably and fairly implied by OCC Rule 205.

- The Authorization Form for Post-Trade Instructions is a form to facilitate instructions received for Clearing Member Trade Assignment ("CMTA"), in accordance with and as reasonably and fairly implied by OCC Rule 407.

- The Security Agreement for Non-U.S. Clearing Members provides a Non-U.S. Clearing Member's acknowledgement of OCC's security interest on positions and collateral in the various accounts established under and as reasonably and fairly implied by Section 3 of By-Law Article VI.

Each of these forms is meant to facilitate the above-referenced By-Laws and Rules, and do not themselves establish or change any standard, limit or guidelines with respect to the rights, obligations or privileges of Clearing Members or applicants for clearing membership or the meaning, administration or enforcement of those By-Laws and Rules. Any changes to the above-referenced By-Laws and Rules would require a proposed rule change.

(3) *OCC Services Agreement.*²⁴ OCC does not consider the OCC Services Agreement to be a material aspect of its operations as a registered clearing agency. The terms and conditions that agreement covers are with respect to services that Clearing Members may elect to receive in addition to those normally provided by OCC under its By-Laws and Rules. Nor does the OCC Services Agreement establish or change any standard, limit or guidelines with respect to the rights, obligations or privileges of Clearing Members. The OCC Services Agreement merely provides commercial terms related to OCC's provision of these other services to establish a legal framework for such services.

(4) *Appointment Forms.*²⁵ OCC Rule 901(f) provides that the Appointed Clearing Member may appoint another Clearing Member to effect settlement of physically settled options on its behalf through the facilities of NSCC "in such manner as [OCC] shall from time to time prescribe," and that the appointment becomes effective on the first business day following the day on which OCC receives a written notice from the Appointed Clearing Member "in such form as the Corporation shall from time to time prescribe" of its acceptance of the appointment. In addition, pursuant to OCC Rule 901(g), Canadian Clearing

²⁴ OCC has filed the OCC Services Agreement, as proposed to be amended, as Exhibit 3j to File No. SR-OCC-2026-002.

²⁵ OCC has filed the Appointment Forms, as proposed to be amended, as Exhibits 3k through 3n, respectively, to File No. SR-OCC-2026-002.

Members may appoint, “in such manner as the [OCC] shall from time to time prescribe,” CDS to act on its behalf with respect to the settlement of all exercised or matured cleared securities in the accounts of the Canadian Clearing Member that are settled through NSCC.

The Appointment Forms are the means by which the Appointed and Appointing Clearing Members or a Canadian Clearing Member provide the required acknowledgements under OCC Rules 901(f) and 901(g), respectively. The Appointment forms also require acknowledgement and agreement from the Appointing Clearing Member that relate to OCC’s rights in the event of an Appointed Clearing Member’s suspension under Chapter XI of OCC’s Rules. Accordingly, OCC believes the Appointment Forms are reasonably and fairly implied by those rules. Any changes to OCC Rules 901(f) and 901(g), or to Chapter XI of OCC’s Rules, would require OCC to file a proposed rule change.

With respect to the acceptance of an appointment by an Appointed Clearing Member, the acceptance form also requires the Appointed Clearing Member to agree to maintain the net capital required by OCC Rule 309A and remain subject to OCC Rule 309A until the appointment is terminated. However, OCC previously filed a proposed rule change to remove Rule 309A, in favor of the general net capital requirements as set forth in current Rule 301.²⁶ Rather than require Appointed Clearing Members to report net capital below the thresholds previously set forth in OCC Rule 309A, the current Rules require an Appointed Clearing Member to provide Early Warning notices pursuant to current OCC Rule 306A(a)(2).²⁷ Accordingly, upon withdrawal of the acceptance of appointment form from the rules, OCC would update the form to reflect current Rule 301 and 306A(a)(2).

In addition, certain of the Appointment Forms filed in 2014 relate to products no longer listed by OCC’s participant exchanges and no longer cleared by OCC, including physically settled treasury options and futures. Accordingly, OCC proposes to withdraw the Appointment Forms designed to support those products, including for designating an Appointed Clearing Member for purposes of settling those products through the facilities of the Fixed Income Clearing Corporation (“FICC”) and providing information to

OCC related to a Clearing Member’s FICC membership.

(5) *Product-Specific Forms and Account-Specific Forms.*²⁸ The remaining Clearing Membership Forms include forms that relate to specific products or account types. OCC believes these forms are reasonably and fairly implied by existing OCC rules, or otherwise not considered rules for the following reasons:

- The NSCC Participation Status form is a form for the Clearing Member to provide, and NSCC to confirm, an applicant’s membership in NSCC for purposes of sending exercise and assignment activity for physically settled options to NSCC for settlement, in compliance with and as reasonably and fairly implied by OCC Rule 302(e).

- The Stock Loan Participant Information Form is a form for a participant in OCC’s Hedge Loan Program or Market Loan Program to provide information related to its membership with DTC, as required and reasonably and fairly implied by OCC Rule 302(f). The form may also be used by participants in that program to provide instructions to OCC concerning the applicable mark-to-market percentage and rounding convention to be applied, pursuant to and as reasonably and fairly implied by OCC Rules 2201 and 2201A.

- The FICC Membership Information form is a form for a participant to provide information about their FICC membership for purposes of clearing Treasury Securities Options and Treasury Futures under Chapters XIII and XIV of OCC’s Rules. As discussed above, none of OCC’s participant exchanges currently list such products. Accordingly, OCC proposes to withdraw the FICC Membership Information form.

- The JBO Acknowledgement Letter is a form used by a Clearing Member that desires to maintain a JBO Participants’ Account to provide acknowledgement to the requirements for such an account, as reasonably and fairly implied by Section 3(h) of OCC By-Law Article VI.

- The Government Securities Delivery Information Form is a form used by Clearing Members to identify the account information for its custodial bank for purposes of delivering Government securities as collateral in satisfaction of margin or Clearing Fund requirements, as reasonably and fairly implied by OCC Rule 604(a)(1) and I&P .17 thereto, with respect to margin

collateral, and Rule 1002(a)(ii), with respect to Clearing Fund deposits.

Each of these forms is meant to facilitate the above-referenced By-Laws and Rules, and do not themselves establish or change any standard, limit or guidelines with respect to the rights, obligations or privileges of Clearing Members or applicants for clearing membership or the meaning, administration or enforcement of those By-Laws and Rules. Any changes to the above-referenced By-Laws and Rules would require a proposed rule change.

In addition, OCC maintains a Participating Escrow Bank Agreement and an Escrow Program Tri-Party Agreement between OCC, a custodian bank that OCC has approved to hold escrow deposits, and, in the case of the Escrow Program Tri-Party Agreement, a customer of a Clearing Member, for purposes of OCC’s Escrow Deposit Program under OCC Rule 610C.²⁹ Specifically, Rule 610C(b) allows for escrow deposits to be held in a customer’s account at a participating escrow bank “approved by [OCC], and into which [OCC] has online view access . . . at the participating escrow bank governed by an agreement in a form acceptable to [OCC] and signed by the customer, [OCC], and the participating escrow bank.” As such, OCC believes that execution of these agreements is reasonably and fairly implied by OCC Rule 610C.

With respect to the terms of the agreement, OCC considers the material aspect to be the agreement of the parties to abide by the Escrow Deposit Program rules as set forth in and reasonably and fairly implied by OCC’s By-Laws and Rules, including OCC Rule 610C. Any change to the rules for the Escrow Deposit Program would require a proposed rule change. The Participating Escrow Bank Agreement also requires the custodian bank to meet certain capital requirements. In practice, OCC employs the same standards for escrow deposit banks as it does for Clearing Banks under OCC Rule 206. In the interest of enhanced transparency, OCC proposes to amend Rule 610C(b) to add that OCC may in its discretion approve a participating escrow deposit bank if a bank: (i) meets the minimum requirements for a Clearing Bank under Rule 206, and (ii) meets such other standards for participating escrow deposit banks as OCC may determine from time to time. In addition to promoting enhanced transparency, the

²⁶ See Exchange Act Release No. 97150, *supra* note 18, at 17062.

²⁷ *Id.* at 17056.

²⁸ OCC has filed the Product-Specific Forms and Account-Specific Forms, as proposed to be amended, as Exhibits 3o through 3u, respectively, to File No. SR-OCC-2026-002.

²⁹ OCC has filed the Participating Escrow Bank Agreement and the Escrow Program Tri-Party Agreement, as proposed to be amended, as Exhibits 3t and 3u, respectively, to File No. SR-OCC-2026-002.

purpose of this proposed change is to ensure that a sound legal framework exists for why OCC may approve or reject a particular participating escrow deposit bank. This proposed change will inform Clearing Members of those requirements and help Clearing Members to understand why OCC may make such determination. This proposed change is aligned with changes OCC made to extend the Clearing Bank standards to issuers of letters of credit pursuant to OCC Rule 604(c) and I&P .01 thereunder.³⁰ Withdrawing these agreements from the rules would align them with how OCC has filed other banking agreements, including the Cash Settlement Agreements that OCC executes with Clearing Banks.³¹

Withdrawing the Clearing Membership Forms as Rules Is Consistent With the General Instructions for Form 19b-4 and the Practice of Other SROs

OCC believes that filing the Clearing Membership Forms as Exhibit 3 to SR-OCC-2026-002, as opposed to rule text as is the case for items filed under Exhibit 5, is consistent with the Commission's General Instructions for Form 19b-4.³² Specifically, the General Instructions provide that "[i]f completion of [any] form . . . is voluntary or is required pursuant to an existing rule of the [SRO], the form . . . together with a statement identifying any existing rule that requires completion of the form . . . shall be attached as Exhibit 3."³³ OCC has filed the Clearing Membership Forms, as proposed to be amended, as Exhibit 3 to SR-OCC-2026-002 and has, through the narrative above, provided a statement identifying the existing rules that require completion of the form.

In addition, OCC believes that filing the Clearing Membership Forms as Exhibit 3 is consistent with the practices of other SROs with respect to similar forms. For example, national securities exchanges, which are also SROs and subject to the requirements of Exchange Act and Rule 19b-4 thereunder, submit such forms as Exhibits F to their Form 1 application, which is for forms pertaining to, among other things, application for membership,

participation, or subscription to the exchange, rather than as Exhibit A (constitution, articles of incorporation, and existing by-laws or corresponding rules or instruments) or Exhibit B (written rules, settled practices having the effect of rules, and interpretations of the governing board or other committee of the exchange in respect of any provisions of the constitution, by-laws, rules, or trading practices of the exchange).³⁴ In addition, OCC notes that other covered clearing agencies have submitted similar membership-related forms as Exhibits 3 to filings.³⁵

Proposed Rule 204(h)

OCC also proposes to codify in Rule 204 the general requirement that applicants for Clearing Membership and existing Clearing Members execute agreements related to the services they are requesting or receiving. Specifically, OCC proposes to add a paragraph (h) to Rule 204 that would require, as a condition to admission, that each applicant for clearing membership and each Clearing Member sign and deliver to the Corporation such other instruments in writing as the Corporation may require from time to time. For example, if an applicant or an existing Clearing Member selects to utilize a particular service offered by OCC outlined in the Agreement for OCC Services, such as an ancillary service or a data distribution service, OCC would require the applicant or Clearing Member to execute other instruments, such as other forms or agreements, related to the selected service. This provision would supplement existing Rule 204(b), which currently requires Clearing Members to execute the Clearing Member Agreement or Non-U.S. Clearing Member Agreement, as applicable. Rule 204(h) is designed to capture the Clearing Membership Forms that would be applicable to a particular applicant or Clearing Member based on the types of services and accounts that the Clearing Member selects and are not otherwise required by other OCC By-Laws and Rules.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act³⁶ and the rules and regulations thereunder applicable to a registered clearing agency. In particular,

Section 17A(b)(3)(F) of the Act³⁷ requires, among other things, that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. OCC's relationship with its Clearing Members is largely governed by OCC's By-Laws and Rules, which become applicable to applicants that execute the Clearing Member Agreements with OCC. The Clearing Membership Forms are forms (1) to provide information to OCC required under OCC's By-Laws and Rules; (2) to acknowledge agreement with certain requirements or provide certain affirmations or representations required under OCC's By-Laws and Rules; or (3) to provide a legal foundation for services OCC performs outside of the By-Laws and Rules. Withdrawing the Clearing Membership Forms as rules would allow OCC to more efficiently maintain these documents, while continuing to maintain transparency through any proposed rule changes that may be needed to amend OCC's By-Laws and Rules. For these reasons, the proposed rule change is reasonably designed to foster cooperation and coordination between OCC and prospective participants and remove impediments to and perfect the mechanisms of the national system for the clearance and settlement of listed options, among other products that OCC clears, in accordance with Section 17A(b)(3)(F) of the Act.³⁸

OCC also believes that the proposed changes are consistent with Exchange Act Rule 17ad-22(e)(21), which requires, in relevant part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.³⁹ Since the implementation of the Covered Clearing Agency Standards,⁴⁰ the number of documents that OCC has filed as rules of OCC has increased substantially to include not only OCC's By-Laws and Rules, articles of incorporation, stockholders' agreement and certain other agreements memorializing linked relationships with other financial market utilities that had historically

³⁰ See Exchange Act Release No. 96533 (Dec. 19, 2022) 87 FR 79015, 79019-20 (Dec. 23, 2022) (amending I&P .01 to Rule 604 to align with the Clearing Bank standards of OCC Rule 206).

³¹ See Exchange Act Release No. 82055 (Nov. 13, 2017), 82 FR 54448 (Nov. 17, 2017) (SR-OCC-2017-805) (filing a template Cash Settlement Procedures Agreement as an Exhibit 3).

³² General Instructions for Form 19b-4, available at <https://www.sec.gov/files/form-19b4-general-instructions.pdf>.

³³ *Id.* at I.1(a).

³⁴ See Form 1 Instructions, available at <https://www.sec.gov/files/form1.pdf>.

³⁵ See, e.g., SR-NSCC-2021-012, available at <https://www.dtcc.com/-/media/Files/Downloads/legal/rule-filings/2021/NSCC/SR-NSCC-2021-012.pdf> (submitting revised templates of the NSCC Membership Agreement as Exhibit 3).

³⁶ 15 U.S.C. 78q-1.

³⁷ 15 U.S.C. 78q-1(b)(3)(F).

³⁸ *Id.*

³⁹ 17 CFR 240.17ad-22(e)(21).

⁴⁰ See Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786 (Oct. 13, 2016) (S7-03-14).

been filed as rules, but also material policies and procedures,⁴¹ margin and stress testing methodology descriptions,⁴² OCC's Recovery and Orderly Wind-down Plan,⁴³ and other governance documents.⁴⁴ Together,

⁴¹ See Exchange Act Release Nos. 102284 (Jan. 27, 2025), 90 FR 8728 (Jan. 31, 2025) (SR–OCC–2025–001); 102203 (Jan. 15, 2025), 90 FR 7720 (Jan. 22, 2025) (SR–OCC–2024–016); 101151 (Sept. 24, 2024), 89 FR 79668 (Sept. 30, 2024) (SR–OCC–2024–012); 100998 (Sept. 11, 2024), 89 FR 76171 (Sept. 17, 2024) (SR–OCC–2024–009); 99169 (Dec. 14, 2023), 88 FR 88163 (Dec. 20, 2023) (SR–OCC–2023–008); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR–OCC–2022–012); 8093 (Aug. 9, 2023), 88 FR 55492 (Aug. 15, 2023) (SR–OCC–2023–006); 97763 (June 20, 2023), 88 FR 41453 (June 26, 2023) (SR–OCC–2023–004); 96566 (Dec. 22, 2022), 87 FR 80207 (Dec. 29, 2022) (SR–OCC–2022–010); 94950 (May 19, 2022), 87 FR 31916 (May 25, 2022) (SR–OCC–2022–004); 94304 (Feb. 24, 2022), 87 FR 11776 (Mar. 2, 2022) (SR–OCC–2021–014); 93436 (Oct. 27, 2021), 86 FR 60499 (Nov. 2, 2021) (SR–OCC–2021–010); 92038 (May 27, 2021), 86 FR 29861 (June 3, 2021) (SR–OCC–2021–003); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR–OCC–2020–016); 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (SR–OCC–2020–014); 89037 (June 10, 2020), 85 FR 36442 (June 16, 2020) (SR–OCC–2020–006); 89014 (June 4, 2020), 85 FR 35446 (June 10, 2020) (SR–OCC–2020–003); 88029 (Jan. 24, 2020), 85 FR 5500 (Jan. 30, 2020) (SR–OCC–2019–007); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR–OCC–2019–010); 86436 (July 23, 2019), 84 FR 36632 (July 29, 2019) (SR–OCC–2019–006); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR–OCC–2019–004); 83916 (Aug. 23, 2018), 83 FR 44076 (Aug. 29, 2018) (SR–OCC–2017–020); 83799 (Aug. 8, 2018), 83 FR 40379 (Aug. 14, 2018) (SR–OCC–2018–011); 83735 (July 27, 2018), 83 FR 37855 (Aug. 2, 2018) (SR–OCC–2018–008); 82785 (Feb. 27, 2018), 83 FR 9345 (Mar. 5, 2018) (SR–OCC–2017–011); 82311 (Dec. 13, 2017), 82 FR 60252 (Dec. 19, 2017) (SR–OCC–2017–008); 82310 (Dec. 13, 2017), 82 FR 60265 (Dec. 19, 2017) (SR–OCC–2017–010); 82658 (Feb. 7, 2018), 83 FR 6646 (Feb. 14, 2018) (SR–OCC–2017–007).

⁴² See Exchange Act Release Nos. 102203 (Jan. 15, 2025), 90 FR 7720 (Jan. 22, 2025) (SR–OCC–2024–016); 100998 (Sept. 11, 2024), 89 FR 76171 (Sept. 17, 2024) (SR–OCC–2024–009); 100528 (July 15, 2024), 89 FR 58836 (July 19, 2024) (SR–OCC–2024–008); 100455 (July 9, 2024), 89 FR 56452 (July 9, 2024) (SR–OCC–2024–006); 99735 (Mar. 14, 2024), 89 FR 19907 (Mar. 20, 2024) (SR–OCC–2023–007); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR–OCC–2022–012); 95319 (July 19, 2022), 87 FR 44167 (July 25, 2022) (SR–OCC–2022–001); 93371 (Oct. 18, 2021), 86 FR 58704 (Oct. 22, 2021) (SR–OCC–2021–011); 91833 (May 10, 2021), 86 FR 26586 (May 14, 2021) (SR–OCC–2021–005); 90827 (Dec. 30, 2020), 86 FR 659 (Jan. 5, 2021) (SR–OCC–2020–015); 89014, 85 FR 35446 (June 4, 2020) (SR–OCC–2020–003); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR–OCC–2019–010); 87717 (Dec. 11, 2019), 84 FR 68985 (Dec. 17, 2019) (SR–OCC–2019–009); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR–OCC–2019–004); 83735 (July 27, 2018), 83 FR 37855 (Aug. 2, 2018) (SR–OCC–2018–008); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR–OCC–2020–016).

⁴³ See Exchange Act Release Nos. 103587, 90 FR 36472 (Aug. 4, 2025) (SR–OCC–2025–005); 98107 (Aug. 10, 2023), 88 FR 55804 (Aug. 16, 2023) (SR–OCC–2023–005); 93436 (Oct. 27, 2021), 86 FR 60499 (Nov. 2, 2021) (SR–OCC–2021–003); 92038 (May 27, 2021), 86 FR 29861 (June 3, 2021) (SR–OCC–2021–003); 90712 (Dec. 17, 2020), 85 FR 84050 (Dec. 23, 2020) (SR–OCC–2020–013); 83918 (Aug. 23, 2018), 83 FR 44091 (Aug. 29, 2018) (SR–OCC–2017–012).

⁴⁴ See Exchange Act Release Nos. 101792, 89 FR 97127 (Dec. 6, 2024) (SR–OCC–2024–015); 11572,

these documents now total approximately 1,100 pages of rule text.

OCC believes that withdrawing the Clearing Membership Forms, which include 21 separate documents that contribute approximately 100 pages to this total, would help ease the administrative burden of maintaining OCC's rule text and allow OCC to more expeditiously implement changes to such documents that are consistent with the existing By-Laws and Rules. For example, as discussed above, OCC has identified instances where these documents require updates to amend outdated references to OCC's By-Laws or Rules or to remove forms that are no longer relevant to OCC's current processes. Because the Clearing Membership Forms are currently filed as rules, a proposed rule change is required to make such administrative amendments. Such proposed rule changes require time and attention from OCC, its Board of Directors, Commission staff, and the Commission that would be more effectively allocated to matters that advance OCC's role as a registered clearing agency that has been designated as a systemically important financial market utility. Accordingly, OCC believes that the proposed rule change would enable OCC to more efficiently and effectively meet the requirements of its participants and the markets it serves, consistent with Exchange Act Rule 17ad–22(e)(21).⁴⁵ As required by Exchange Act Section 19⁴⁶ and Rule 19b–4⁴⁷ thereunder, the By-Laws and Rules that form the basis for such documents would continue to require a proposed rule change to amend.

OCC also believes that the proposed changes are consistent with Exchange Act Rule 17ad–22(e)(1), which requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and

89 FR 46205 (May 28, 2024) (SR–OCC–2024–005); 100194 (May 21, 2024), 89 FR 46205 (May 29, 2024) (SR–OCC–2024–005); 94988 (May 26, 2022), 87 FR 33535 (June 2, 2022) (SR–OCC–2022–002); 93102 (Sept. 22, 2021), 86 FR 53718 (Sept. 27, 2021) (SR–OCC–2021–007); 87577 (Nov. 20, 2019), 84 FR 65202 (Nov. 26, 2019) (SR–OCC–2019–008); 85129 (Feb. 13, 2019), 84 FR 5129 (Feb. 20, 2019) (SR–OCC–2018–015); 84836 (Dec. 17, 2018), 83 FR 65775 (Dec. 21, 2018) (SR–OCC–2018–013); 84473 (Oct. 23, 2018), 83 FR 54385 (Oct. 29, 2018) (SR–OCC–2018–012); 80531 (Apr. 26, 2017), 82 FR 20502 (May 2, 2017) (SR–OCC–2017–002); 78862 (Sept. 16, 2016), 81 FR 65415 (Sept. 22, 2016) (SR–OCC–2016–002); 72564 (July 8, 2014), 79 FR 40824 (July 14, 2014) (SR–OCC–2014–09); 71022 (Dec. 6, 2013), 78 FR 75659 (Dec. 12, 2013) (SR–OCC–2013–17).

⁴⁵ *Id.*

⁴⁶ 15 U.S.C. 78s

⁴⁷ 17 CFR 240.19b–4.

enforceable legal basis for each aspect of its activities in all relevant jurisdictions.⁴⁸ As discussed above, certain provisions of OCC's By-Laws and Rules already require members to provide information to OCC, acknowledge agreement with certain requirements, or provide affirmations or representations in forms to be prescribed by OCC. Withdrawing the forms as rule text would allow OCC to more efficiently and effectively maintain and update such forms based on OCC's current practices and the current state of OCC's By-Laws and Rules, as periodically amended through proposed rule changes filed with the Commission, thereby ensuring that they continue to form an enforceable legal basis for OCC's clearance and settlement activities.

Certain of these forms relate to services provided by OCC to Clearing Members outside of the rules, such as the services offered under the OCC Services Agreement. The proposed addition of Rule 204(h) would require applicants for admission and Clearing Members to sign and deliver to the Corporation such instruments in writing as the Corporation may require from time to time depending on the services selected by the Clearing Member or applicant. As such, OCC believes that OCC Rule 204(h) is designed to provide a clear, transparent and enforceable legal basis for such services by requiring Clearing Members who select such services to execute agreements containing terms and conditions that are designed to form the legal basis for such services.

In addition, in connection with withdrawing the Participating Escrow Bank Agreement as rule text, OCC proposes to codify in OCC Rule 610C its standards for approving participating escrow banks. Specifically, OCC proposes to amend OCC Rule 610C to provide that a participating escrow bank must meet the same standards for Clearing Banks as established by OCC Rule 206, as well as any other standards for participating escrow deposit banks as OCC may determine from time to time. This rule is identical to one for letter-of-credit banks under OCC Rule 604(c) and I&P .01 thereunder previously approved by the Commission.⁴⁹ Accordingly, OCC believes that this proposed change provides clarity and transparency to

⁴⁸ 17 CFR 240.17ad–22(e)(1).

⁴⁹ See Exchange Act Release No. 98101 (Aug. 10, 2023), 88 FR 55775, 55780 (Aug. 16, 2023) (approving amendments to I&P .01 to OCC Rule 604 for letter-of-credit banks to reference then-Rule 203, which prescribed minimum standards for Clearing Banks).

market participants about the participating escrow banking relationships that OCC would deem acceptable.

For these reasons, OCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Exchange Act⁵⁰ and Rules 17ad-22(e)(1) and (21) thereunder.⁵¹

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act⁵² requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed withdrawal of the Clearing Membership Forms as rule text is administrative in nature and does not materially change the obligations of applicants for membership or Clearing Members as provided by OCC's By-Laws and Rules. The proposed addition of Rule 204(h), which would require Clearing Members to sign and deliver such instruments in writing as OCC may require would apply equally to all Clearing Members and applicants for membership depending on which services and account types they select. Furthermore, the standards for escrow bank relationships that OCC proposes to add to Rule 610C for transparency would apply to any escrow bank relationships that an applicant or Clearing Member would want OCC to consider for inclusion in the Escrow Deposit Program. These changes will apply to all applicants or existing Clearing Members equally and would not advantage or disadvantage an existing Clearing Member or applicant over another Clearing Member or applicant. Accordingly, OCC does not believe that this proposed rule change will impose a burden on competition.⁵³

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁵⁴ and paragraph (f) of Rule 19b-4⁵⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.⁵⁶

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-OCC-2026-002 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-OCC-2026-002. 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 such filing will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

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-OCC-2026-002 and should be submitted on or before March 31, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-04602 Filed 3-9-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 12, 2026.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that

⁵⁰ 15 U.S.C. 78q-1(b)(3)(F).

⁵¹ 17 CFR 240.17ad-22(e)(1), (21).

⁵² 15 U.S.C. 78q-1(b)(3)(I).

⁵³ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

⁵⁴ 15 U.S.C. 78s(b)(3)(A).

⁵⁵ 17 CFR 240.19b-4(f).

⁵⁶ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

⁵⁷ 17 CFR 200.30-3(a)(12).

may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: March 5, 2026.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026-04609 Filed 3-6-26; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104931]

Order Granting Directors and Officers of Certain Foreign Private Issuers an Exemption From the Filing Requirements of Section 16(a) of the Exchange Act

March 5, 2026.

The Holding Foreign Insiders Accountable Act (“HFIA Act”),¹ enacted on December 18, 2025, amended Section 16(a) of the Securities Exchange Act of 1934 (“Exchange Act”) to require every person who is a director or an officer of a foreign private issuer, as that term is defined in Exchange Act Rule 3b-4,³ with a class of equity securities registered pursuant to Section 12 of the Exchange Act (“FPI”) to file Section 16 reports. On February 27, 2026, the Securities and Exchange Commission (“Commission”) adopted amendments to Exchange Act Rules 3a12-3(b) and 16a-2, and Forms 3, 4, and 5 to reflect the requirements of the HFIA Act.⁴

Section 16(a)(5) of the Exchange Act,⁵ as added by the HFIA Act, states that the Commission may, by rule, regulation, or order, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the requirements of Section 16(a) if the Commission determines that the laws of a foreign jurisdiction apply substantially similar requirements to such person, security, or transaction.

Pursuant to the authority granted under Section 16(a)(5) of the Exchange Act, and subject to the conditions listed below, the Commission is exempting from the reporting requirements of

Section 16(a), and rules related to that provision, the directors and officers of any FPI that is (i) incorporated or organized in a “qualifying jurisdiction,” as defined below, and (ii) subject to a “qualifying regulation,” as defined below.⁶ The exemptive relief is available to directors and officers of an FPI that is either (i) incorporated or organized in a qualifying jurisdiction and subject to a qualifying regulation of the same jurisdiction or (ii) incorporated or organized in a qualifying jurisdiction but subject to a qualifying regulation of a different jurisdiction listed below.⁷

Qualifying Jurisdictions:

- Canada;
- Chile;
- the European Economic Area;⁸
- the Republic of Korea;
- Switzerland; or
- the United Kingdom.

Qualifying Regulations:

- Canada’s National Instrument 55-104—Insider Reporting Requirements and Exemptions (supported by National Instrument 55-102—System for Electronic Disclosure by Insiders (SEDI) and companion policies) (“NI 55-104”), which provides, in general, requirements that directors and officers of covered issuers promptly report their initial holdings and any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the

⁶ The Commission may exercise its exemptive authority from time to time and extend exemptive relief to the directors and officers of FPIs incorporated or organized in and subject to regulation in other jurisdictions that set forth requirements substantially similar to Section 16(a) requirements. Any such relief would be granted in separate Commission orders.

⁷ For example, directors and officers of an FPI that is incorporated in Canada with securities registered in Germany and subject to Article 19 of EU MAR that otherwise satisfy the conditions of this order would be exempt from Section 16(a) reporting obligations.

⁸ As of the date of this exemptive order, the European Economic Area consists of the 27 member states of the European Union (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden) as well as Iceland, Liechtenstein, and Norway. Any country that joins the EEA would also be required to adopt EU MAR (and therefore this exemptive relief would apply to directors and officers of its FPIs), while a country that leaves the EEA may no longer be subject to EU MAR (and directors and officers of its FPIs would no longer be eligible for this exemptive relief to the extent the country is no longer subject to the EU MAR). See EFTA’s Q&A about the EEA Agreement, available at <https://www.efta.int/eea-relations-eu/qa-about-eea-agreement#c1>, and Annex IX to the EEA Agreement, available at <https://www.efta.int/sites/default/files/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex9.pdf>.

transaction, and that such reports be made available to the general public;

- Articles 12, 17, and 20 of the Chilean Securities Market Law (Ley de Mercado de Valores, Ley No. 18,045) and General Rule (Norma de Carácter General) No. 269, which provide, in general, requirements that directors and executive officers promptly report their initial holdings and any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public;
- Article 19 of the European Union Market Abuse Regulation (Regulation (EU) No. 596/2014, as amended by Regulation (EU) No. 2024/2809) (including, as applicable, implementing legislation and regulations adopted by the European Union’s member states) and as incorporated into the domestic law of each European Economic Area state (“EU MAR”), which provides, in general, requirements that persons discharging managerial responsibilities (which includes directors and officers) promptly report to the issuer any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public;

- Article 173 of the Republic of Korea Financial Investment Services and Capital Markets Act and Article 200 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act which provide, in general, requirements that directors and executives promptly report their initial holdings and any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public;

- Article 56 of the Listing Rules and implementing directives of SIX Swiss Exchange as approved by the Swiss Financial Market Supervisory Authority (the “SIX Listing Rules”) which provide, in general, requirements that members of the board of directors and members of the executive committee promptly report to the issuer any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public; or

¹ Public Law 119-60, 139 Stat. 1838 (Dec. 18, 2025), Sec. 8103.

² 15 U.S.C. 78p(a).

³ 17 CFR 240.3b-4.

⁴ Holding Foreign Insiders Accountable Act Disclosure, Release No. 34-104903 (Feb. 27, 2026).

⁵ 15 U.S.C. 78p(a)(5).

• Article 19 of the United Kingdom Market Abuse Regulation (Regulation (EU) No. 596/2014), as it forms part of United Kingdom domestic law pursuant to the European Union (Withdrawal) Act 2018 (“UK MAR”), which provides, in general, requirements that persons discharging managerial responsibilities (which includes directors and officers) promptly report to the issuer any changes in beneficial ownership of the issuer’s securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public.⁹

The exemption granted by this order is subject to the following conditions:

- Any director or officer, as defined in Section 3(a)(7) of the Exchange Act and Rule 16a–1(f) of the Exchange Act, respectively, seeking to rely on this exemption is required to report their transactions in the issuer’s securities as set forth under the qualifying regulation to which they are subject;¹⁰ and
- Any report filed pursuant to a qualifying regulation is made available in English to the general public within no more than two business days of its public posting.¹¹

In exercising the exemptive authority granted under Section 16(a)(5) of the Exchange Act, the Commission has determined that the qualifying regulations of the qualifying jurisdictions include substantially similar requirements to the requirements of Section 16(a). In making this determination, the Commission considered the following criteria:

- Persons covered: directors and officers of issuers, including persons who perform policy-making functions for the issuer, are subject to reporting obligations.
- Securities covered: directors and officers must report holdings of, and

transactions in, any equity securities or derivative securities relating to an issuer.

- Transactions covered: directors and officers must report transactions and other changes in beneficial ownership, including acquisitions and dispositions of any direct or indirect beneficial ownership interest, with a focus on the director’s or officer’s opportunity to profit or share in the profit derived from a transaction.

- Reports: the required reports disclose the director’s or officer’s beneficial ownership and changes in such beneficial ownership, with timely filings of these reports.

- Publicly available: reports are publicly available electronically in English.

The Commission reviewed each of the qualifying regulations and assessed how each qualifying regulation compared to Section 16(a) of the Exchange Act with regard to each of the criteria listed above. The Commission concluded that each of the qualifying regulations covers substantially similar persons, securities, and transactions as those covered by Section 16(a) of the Exchange Act, and requires timely public disclosures of the covered persons’ changes in beneficial ownership.

Accordingly, it is ordered, pursuant to Section 16(a)(5) of the Exchange Act, that directors and officers of an FPI that is incorporated or organized in a qualifying jurisdiction and subject to a qualifying regulation are exempt from the reporting requirements of Section 16(a) of the Exchange Act, provided that each condition set forth above is satisfied.

By the Commission.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–04613 Filed 3–9–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21430; LOUISIANA Disaster Number LA–20012]

Administrative Declaration Amendment of an Economic Injury Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Economic Injury Disaster Loan (EIDL) declaration for the state of Louisiana dated February 2, 2026.

Incident: 2026 Severe Winter Storm.

DATES: Issued on March 4, 2026.

Incident Period: January 23, 2026 through January 27, 2026.

Economic Injury (EIDL) Loan

Application Deadline Date: November 2, 2026.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Jennifer Talarico, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the Economic Injury Disaster Loan (EIDL) declaration for the state of Louisiana, dated February 2, 2026 is hereby amended to update the incident period for this disaster as beginning January 23, 2026 and continuing through January 27, 2026.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–04604 Filed 3–9–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21454 and #21455; LOUISIANA Disaster Number LA–20013]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Louisiana (FEMA–4900–DR), dated March 4, 2026.

Incident: Louisiana Severe Winter Storm.

DATES: Issued on March 4, 2026.

Incident Period: January 23, 2026 through January 27, 2026.

Physical Loan Application Deadline Date: May 4, 2026.

Economic Injury (EIDL) Loan

Application Deadline Date: December 4, 2026.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small

⁹For purposes of this exemptive order, the term “qualifying regulations” includes any successor regulations that are materially the same as the regulations listed in this order. The Commission may exercise its right to reassess and modify this order if there are future changes to the qualifying regulations or other relevant changes in the jurisdiction of incorporation sufficiently material such that the qualifying regulations are no longer substantially similar to the requirements of Section 16(a).

¹⁰This condition is intended to ensure that any director or officer that does not fall within the defined category of reporting persons under the applicable qualifying regulation will still be required to file Section 16(a) reports.

¹¹Some foreign regulations do not require such reports to be made in English despite having substantially similar reporting requirements. If an English version of the report cannot be filed through an appropriate regulator’s (or listing venue’s) online database, then the report could be made publicly available on the company website.

Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on March 4, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal <https://lending.sba.gov> or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: Bienville, De Soto, East Carroll, Franklin, Morehouse, Ouachita, Richland, West Carroll.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21454B and for economic injury is 214550.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-04680 Filed 3-9-26; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice 12957]

30-Day Notice of Proposed Information Collection: Medical History and Examination

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to April 9, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Director of Medical Clearances, Jessica Martinez, who may be reached on (202) 663-1657 or at MartinezJA7@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Medical History and Examination.
- *OMB Control Number:* 1405-0068.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Medical Services—Office of Medical Clearances (MED/CP/CS/CL).
- *Form Number:* DS-1843 and DS-1622.
- *Respondents:* Chief of Mission personnel and eligible family members.
- *Estimated Number of Respondents:* 2,039.
- *Estimated Number of Responses:* 2,039.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 2,0390 hours.
- *Frequency:* Upon application/employment for an overseas position and then intermittent, as needed.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for

this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Forms DS-1843 and DS-1622 collect medical history, screenings and physical examinations for all individuals applying for overseas positions, including their eligible family members. Forms DS-1843 and DS-1622 are designed to collect sufficient and current medical information on the individual for a medical provider to make a medical clearance determination for initial appointment to an overseas assignment. They are also used to determine whether the individual or eligible family member will have appropriate medical and/or educational resources at a diplomatic mission/host country abroad to maintain the health and safety of the individual or family member. The forms were updated to include questions regarding employment agency information for non-foreign service agencies.

Methodology

The respondent will initially answer the questions on pages 1-3 of the forms digitally. They will then be prompted to download the auto populated form with their responses and take it to their personal medical provider for completion and authorization of pages 4-5. Once complete, the forms will be submitted via a secure online platform for review by the Office of Medical Clearances.

Jessica A. Martinez,

Director of Medical Clearances, Bureau of Medical Services, Department of State.

[FR Doc. 2026-04650 Filed 3-9-26; 8:45 am]

BILLING CODE 4710-36-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. FAA–2025–0960]

**Agency Information Collection
Activities: Requests for Comments;
Clearance of New Approval of
Information Collection: Physiology
Training Record****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Notice and request for
comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval of new information collection. The information collected on the Physiology Training Record is required by students attending aviation physiology training that wish to participate in hypoxia training. Information collected is reviewed by the training instructor and a member of the Airman Education Program team to ensure those desiring to participate in this training have the necessary aviation medical qualification.

DATES: Written comments should be submitted by April 9, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anthony Landwehr by email at: Anthony.J.Landwehr@faa.gov; phone: 405–954–6207

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–XXXX.*Title:* Physiology Training Record.*Form Numbers:* FAA 3150–2.*Type of Review:* Clearance of a new information collection.

Background: The **Federal Register** Notice with a 60-day comment period

soliciting comments on the following collection of information was published on May 14, 2025 (90 FR 20549). Aviation physiology training is offered by the Civil Aerospace Medical Institute (CAMI) as is outlined in AC 61–107B (2–8.). The authority for collecting this information is contained in 49 U.S.C. 44703, and 14 CFR 61.31. The data on the Physiology Training Record is required to verify that a person can safely enter an oxygen deprived training environment created by hypobaric or normobaric means without an expectation of experiencing unintentional negative results. This includes an increased/accelerated onset of hypoxia, issues (e.g., barotrauma, decompression sickness) resulting from reduced barometric pressure or any other debilitating issue while experiencing their symptoms of hypoxia in a training environment.

Students voluntarily enroll in the aviation physiology course, which is offered to aircrew with an FAA Class 1, 2 or 3 aviation medical certificate or are flying under the BasicMed program and are at least 18 years of age. The goal is that those individuals will have a greater understanding of the stressors in an aviation environment that could affect the onset of hypoxia with the ability to experience their personal symptoms. Doing this should allow them to respond more quickly and correctly in an actual aviation situation.

Respondents: Student possessing a Class, 1, 2 or 3 aviation medical certificate or are flying under the BasicMed program and are at least 18 years of age. It is estimated that this document will be completed by 2,500 to 3,000 students.

Frequency: Bi-weekly to Monthly.

Estimated Average Burden per Response: 18 seconds per response, 5 minutes to complete all responses per student.

Estimated Total Annual Burden: 270 hours annually.

Issued in Oklahoma City, OK on March 6th, 2026.

Stephanie Terry,

Administrative Officer, Office of Aerospace Management, Program Management Staff (AAM–006).

[FR Doc. 2026–04691 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–13–P**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[Docket No. FAA–2025–0961]

**Agency Information Collection
Activities: Requests for Comments;
Clearance of New Approval of
Information Collection: Basic Survival
Skills for General Aviation Training
Record****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Notice and request for
comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 14, 2025. The information collected on the Basic Survival Skills for General Aviation Training Record is to provide information that the instructor will use to make the course more applicable to those students in attendance while also ascertaining their swimming capability to ensure safety during the training course. The information collected is required to assess and verify a student’s ability to attend the post-crash survival course.

DATES: Written comments should be submitted by April 9, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Eric Simson by email at: Anthony.J.Landwehr@faa.gov; phone: 405–954–6207.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–XXXX.

Title: Basic Survival Skills for General Aviation Training Record.

Form Numbers: FAA 3150–3.

Type of Review: Clearance of a new information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 14, 2025 (90 FR 20549). The authority for collecting this information is contained in 49 U.S.C. 44703, and 14 CFR 61.31. The data on the Survival Training Record is collected to provide information that the instructor will use to make the course more applicable to those students in attendance while also ascertaining their swimming capability to ensure safety during the hands-on ditching exercise.

The information collected on the Survival Training Record is required by students attending the post-crash survival course. It is reviewed by the training instructor and a member of the Airman Education Program team to personalize the teaching experience, verify the swimming ability and previous survival training experience of those attending this training.

The information collected on the document is done on paper, and not through automated, electronic, mechanical or other technological means. This is because doing so is not possible as it is used in a classroom setting for those that attend training at the time of arrival at the training site and technology is not made available. The form is not available to be printed off the internet and the information will not be made available to the public.

Respondents: It is estimated that this document will be completed by 150 to 200 students, depending on demand, attending post-crash survival training annually at the Civil Aerospace Medical Institute.

Frequency: Monthly.

Estimated Average Burden per Response: 36 seconds per response, 3 minutes to complete per student.

Estimated Total Annual Burden: 10 hours annually.

Issued in Oklahoma City, OK, on March 6, 2026.

Stephanie Terry,

Administrative Officer, Office of Aerospace Management, Program Management Staff (AAM-006).

[FR Doc. 2026–04692 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0215; FMCSA–2021–0026; FMCSA–2023–0039]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for five individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on March 15, 2026. The exemptions expire on March 15, 2028. Comments must be received on or before April 9, 2026.

ADDRESSES: You may submit comments identified by Docket No. FMCSA–2014–0215, FMCSA–2021–0026, or FMCSA–2023–0039, as appropriate, using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov, insert the docket number (FMCSA–2014–0215, FMCSA–2021–0026, or FMCSA–2023–0039, as appropriate) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001.
- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the

SUPPLEMENTARY INFORMATION section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; fmcamedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2014–0215, FMCSA–2021–0026, or FMCSA–2023–0039), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to www.regulations.gov, insert the docket number (FMCSA–2014–0215, FMCSA–2021–0026, or FMCSA–2023–0039) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private,

that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments

To view comments, go to www.regulations.gov. Insert the docket number (FMCSA-2014-0215, FMCSA-2021-0026, or FMCSA-2023-0039) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58-213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET 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.

D. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System), which can be reviewed under the "Department Wide System of Records Notices" link at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant

exemptions from the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has "no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control" a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.¹ In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.² The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

¹ Appendix A to Part 391, Title 49, available at <https://www.ecfr.gov/current/title-49/part-391/appendix-Appendix A to Part 391>.

² "Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety," Medical Expert Panel (Oct. 15, 2007), available at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf>.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, any public comments received, and each individual's medical information and driving record in deciding whether to grant the exemption.

The five individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

IV. Request for Comments

Interested parties or organizations possessing information that would show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if the person has failed to comply with the terms and conditions of the exemption, or if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of Title 49 chapter 313 or section 31136, FMCSA will take immediate steps to revoke the exemption of a driver.

V. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the five applicants have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The five drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, the Agency has reviewed each applicant's certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and

other relevant documents, such as the citation and conviction information. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Accordingly, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equivalent to the level of safety that would be achieved without the exemption.

As of March 15, 2026, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers.

Andrew Anzalone (MA)
Ramon Hinojosa (AZ)
Richard Packer (ID)
Brian Adam Runk (PA)
Keith White (PA)

The drivers were included in docket numbers FMCSA–2014–0215, FMCSA–2021–0026, or FMCSA–2023–0039. Their exemptions were applicable as of March 15, 2026, and will expire on March 15, 2028.

VI. Terms and Conditions

The exemptions are extended subject to the following conditions: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by 49 CFR 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, time, and location of any crashes, as defined in 49 CFR 390.5T, within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citation and conviction; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local law enforcement official. In addition, the driver must meet all the applicable commercial driver's license testing requirements. Each exemption will be valid for 2 years unless rescinded earlier

by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption, as set forth above; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49 chapter 313 or section 31136.

VII. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VIII. Conclusion

Based on its evaluation of the five exemption renewal applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–04616 Filed 3–9–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0029]

The National Railroad Passenger Corporation's (Amtrak) Request To Amend Its Positive Train Control System

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on February 27, 2026, Amtrak submitted a request for amendment (RFA) to one of its FRA-certified positive train control (PTC) systems. FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTC system.

DATES: FRA will consider comments received by March 30, 2026. FRA may consider comments received after that date to the extent practicable and without delaying implementation of

valuable or necessary modifications to a PTC system.

ADDRESSES:

Comments: Comments 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 the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0029. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system, or the associated FRA-approved PTC Safety Plan (PTCSP), a host railroad must submit, and obtain FRA's approval of, an RFA to its PTC system or PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on February 27, 2026, Amtrak submitted an RFA, dated February 12, 2026, to its Interoperable Electronic Train Management System, which seeks FRA's approval for a temporary outage to conduct a Back Office Server upgrade. That RFA is available in Docket No. FRA–2010–0029.

Interested parties are invited to comment on Amtrak's RFA by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. See 49

CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. 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>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2026-04701 Filed 3-9-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Amendment of Notice of Funds Availability for Native American CDFI Assistance Program; Revised Application Submission Deadline

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Revised submission deadline.

SUMMARY: On January 17, 2025, the Community Development Financial Institutions Fund (CDFI Fund) published in the **Federal Register** (90 FR 6076) a Notice of Funds Availability (NOFA) inviting Applications for Financial Assistance (FA) or Technical Assistance (TA) awards under the Native American CDFI Assistance Program (NACA Program) Fiscal Year (FY) 2025 Funding Round. On September 25, 2025, the CDFI Fund published amendments to the NOFA in the **Federal Register** (90 FR 46302). As specified in the NOFA amendments, Applicants that submitted an Application under the NOFA and that advanced to step 4 in the scoring/

evaluation process were given an opportunity to update their Applications by 11:59 p.m. Eastern Time on October 27, 2025. However, the submission deadline was affected by the recent lapse in federal government appropriations. Therefore, the CDFI Fund is issuing this notice to revise the submission deadline from 11:59 p.m. Eastern Time on October 27, 2025, to 11:59 p.m. Eastern Time on April 10, 2026. Applicants that were notified by the CDFI Fund that they may update their previous Applications under the NOFA must submit such information by the revised deadline of 11:59 p.m. Eastern Time on April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Applicants should submit any questions to the CDFI Fund via an AMIS service request to the NACA Program. Other information regarding the CDFI Fund may be obtained from the CDFI Fund's website at <https://www.cdfifund.gov>.

All other information and requirements set forth in the NOFA published on January 17, 2025, and in the amendments to the NOFA published on September 25, 2025, shall remain effective, other than as set forth in this notice.

Dated: March 6, 2026.

Alexandria Smith,

Acting Director, Community Development Financial Institutions Fund.

[FR Doc. 2026-04683 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-05-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Information Collection and Request for Public Comment

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Department of the Treasury, as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3506(c)(2)(A). Currently, the Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the Bank Enterprise Award Program (BEA Program) Application (Application). The Application is an online form submitted through the CDFI Fund's

Awards Management Information System (AMIS).

DATES: Written comments must be received on or before May 11, 2026 to be assured of consideration.

ADDRESSES: You may submit comments concerning the Application via the Federal e-Rulemaking Portal at www.regulations.gov. Follow the instructions on the website for the submission of comments. In general, all comments will be available for inspection at www.regulations.gov. Comments, including attachments and other supporting materials, are part of the public record. Do not submit any information in your comments or supporting materials that you consider confidential or inappropriate for public disclosure. Information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at <http://www.cdfifund.gov>.

FOR FURTHER INFORMATION CONTACT: BEA Program, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington DC 20220, 202-653-0300 or by email to BEA@cdfi.treas.gov.

SUPPLEMENTARY INFORMATION:

Title: BEA Program Application.

OMB Number: 1559-0005.

Abstract: The purpose of the Bank Enterprise Award Program is to provide an incentive to Federal Deposit Insurance Corporation-insured (FDIC-insured) depository institutions to increase their lending, investment, and financial services to residents and businesses located in economically distressed communities, and provide assistance through grants, stock purchases, loans, deposits, and other forms of financial and technical assistance. The CDFI Fund will make awards through the BEA Program to FDIC-insured depository institutions, based on institutions' demonstrated increase of qualified activities, as reported in the Application. The BEA Program Application will solicit information concerning the following: applicants' eligibility to participate in the BEA Program; the increase in total dollar value of applicants' qualified activities; and appropriate supporting documentation. The information collected by the Application will enable the CDFI Fund to evaluate applicants' activities and determine the extent of applicants' eligibility for BEA Program Awards.

Current Actions: Extension without change of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit institutions, non-profit entities, and State, local and Tribal

entities participating in CDFI Fund programs.

Estimated Number of Respondents: 174.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 174.

Estimated Annual Time per Respondent including optional questions: 80 hours.

Estimated Total Annual Burden Hours: 13,920.

Request for Comments: Comments submitted in response to this Notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the CDFI Fund website at <https://www.cdfifund.gov>.

The CDFI Fund is seeking input on the BEA Program Application. The Application may be obtained from the Request for Public Comments page of the CDFI Fund's website at <https://www.cdfifund.gov/requests-for-comments>.

Comments concerning the Application are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

In addition, the CDFI Fund requests comments in response to the following questions about the BEA Program Application:

1. Is the data and information that is proposed to be collected by the BEA Program Application necessary and appropriate for the CDFI Fund to consider for the purpose of making award decisions? If no, specify which data and information and why?

2. In general, does the data and information requested in the BEA Program Application allow an applicant to demonstrate its lending, investment and service activities in BEA Program Distressed Communities or to CDFIs? If no, explain why not.

3. Are certain data fields, questions or tables redundant or unnecessary? If yes, identify which ones and why.

4. Should any data fields, questions or tables be added to ensure collection of

relevant information? If yes, identify which ones and why.

5. Are there any data fields, questions or tables that are particularly difficult or burdensome to answer? If so, please be specific as to which questions or tables and describe why they are difficult or burdensome.

(Authority: 12 U.S.C. 1834a, 4703, 4713, 4717; 12 CFR part 1806)

Dated: March 6, 2026.

Alexandria Smith,

Acting Director, Community Development Financial Institutions Fund.

[FR Doc. 2026-04669 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-05-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Amendment of Notice of Funds Availability for Community Development Financial Institutions Program; Revised Application Submission Deadline

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Revised submission deadline.

SUMMARY: On January 17, 2025, the Community Development Financial Institutions Fund (CDFI Fund) published in the **Federal Register** (90 FR 6051) a Notice of Funds Availability (NOFA) inviting Applications for Financial Assistance (FA) or Technical Assistance (TA) awards under the Community Development Financial Institutions Program (CDFI Program) Fiscal Year (FY) 2025 Funding Round. On September 25, 2025, the CDFI Fund published amendments to the NOFA in the **Federal Register** (90 FR 46303). As specified in the NOFA amendments, Applicants that submitted an Application under the NOFA and that advanced to step 4 in the scoring/evaluation process were given an opportunity to update their Applications by 11:59 p.m. Eastern Time on October 27, 2025. However, the submission deadline was affected by the recent lapse in federal government appropriations. Therefore, the CDFI Fund is issuing this notice to revise the submission deadline from 11:59 p.m. Eastern Time on October 27, 2025, to 11:59 p.m. Eastern Time on April 10, 2026. Applicants that were notified by the CDFI Fund that they may update their previous Applications under the NOFA must submit such information by the revised deadline of 11:59 p.m. Eastern Time on April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Applicants should submit any questions to the CDFI Fund via an AMIS service request to the CDFI Program. Other information regarding the CDFI Fund may be obtained from the CDFI Fund's website at <https://www.cdfifund.gov>. All other information and requirements set forth in the NOFA published on January 17, 2025, and in the amendments to the NOFA published on September 25, 2025, shall remain effective, other than as set forth in this notice.

Dated: March 6, 2026.

Alexandria Smith,

Acting Director, Community Development Financial Institutions Fund.

[FR Doc. 2026-04682 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-05-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on November 12, 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 November 12, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. AUNG, Saw San (a.k.a. AUNG, Saw Sang; a.k.a. “AUNG, San”), Burma; DOB 28 Jul 1968; nationality Burma; Gender Male (individual) [BURMA–EO14014] [CYBER4] (Linked To: DEMOCRATIC KAREN BENEVOLENT ARMY).

Designated pursuant to section 1(a)(iii)(D) of Executive Order 14014 of February 10, 2021, “Blocking Property With Respect to the Situation in Burma,” 86 FR 9429, 3 CFR, 2021 Comp. p. 514 (E.O. 14014), for being or having been a leader or official of DEMOCRATIC KAREN BENEVOLENT ARMY, an entity whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

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 DEMOCRATIC KAREN BENEVOLENT ARMY, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

2. HLA, Sai Kyaw (a.k.a. SAI, Ko), Burma; DOB 06 Sep 1971; nationality Burma; Gender Male; Passport MB941865 (Burma); National ID No. 13MasakaN024010 (Burma) (individual) [BURMA–EO14014] [CYBER4] (Linked To: DEMOCRATIC KAREN BENEVOLENT ARMY).

Designated pursuant to section 1(a)(ii)(B) of E.O. 14014 for being responsible or complicit in, or having directly or indirectly engaged or attempted to engage in, actions or policies that threaten the peace, security, or stability of Burma.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694, as further amended, for having materially assisted,

sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that is reasonably likely to result in, or has materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that has 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.

3. SAWANG, Chamu (a.k.a. MOOSAWAN, Naija; a.k.a. SAVANG, Cha Mu; a.k.a. YU, Jianjun), Thailand; DOB 01 Jan 1964 to 17 Feb 1964; nationality Thailand; Gender Male; Passport Z992106 (Thailand) expires 26 Feb 2017 (individual) [BURMA–EO14014] [CYBER4] (Linked To: TRANS ASIA INTERNATIONAL HOLDING GROUP THAILAND COMPANY LIMITED).

Designated pursuant to section 1(a)(iii)(D) of Executive Order 14014 for being or having been a leader or official of TRANS ASIA INTERNATIONAL HOLDING GROUP THAILAND COMPANY LIMITED, an entity whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

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 TRANS ASIA INTERNATIONAL HOLDING GROUP THAILAND COMPANY LIMITED, a person whose property and interest in property are blocked pursuant to E.O. 13694, as further amended.

4. STEEL, Saw, Burma; DOB 27 Mar 1961; nationality Burma; Gender Male (individual) [BURMA–EO14014] [CYBER4] (Linked To: DEMOCRATIC KAREN BENEVOLENT ARMY).

Designated pursuant to section 1(a)(iii)(D) of Executive Order 14014 for being or having been a leader or official of DEMOCRATIC KAREN BENEVOLENT ARMY, an entity whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

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 DEMOCRATIC KAREN BENEVOLENT ARMY, a person whose property and interest in property are blocked pursuant to E.O. 13694, as further amended.

5. WIN, Saw Sein (a.k.a. “WIN, Sein”), Burma; DOB 15 Aug 1965; nationality Burma; Gender Male (individual) [BURMA–EO14014] [CYBER4] (Linked To: DEMOCRATIC KAREN BENEVOLENT ARMY).

Designated pursuant to section 1(a)(iii)(D) of Executive Order 14014 for being or having been a leader or official of DEMOCRATIC KAREN BENEVOLENT ARMY, an entity whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader’s or official’s tenure.

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 DEMOCRATIC KAREN BENEVOLENT ARMY, a person whose property and interest in property are blocked pursuant to E.O. 13694, as further amended.

Entities

1. DEMOCRATIC KAREN BENEVOLENT ARMY (a.k.a. DEMOCRATIC KAREN BUDDHIST ARMY; a.k.a. DEMOCRATIC KAREN BUDDHIST ARMY BRIGADE 5; a.k.a. KALOH HTOO BAW ARMED GROUP; a.k.a. KAREN KLO HTOO BAW ORGANIZATION; a.k.a. KLO HTOO BAW BATTALION; a.k.a. “DKBA”; a.k.a. “DKBA 5”; a.k.a. “KKO”), Sone See Myaing Village, Myawaddy, Karen State, Burma; Organization Established Date 08 Nov 2010; Target Type Armed Group [BURMA–EO14014] [CYBER4].

Designated pursuant to section 1(a)(ii)(B) of E.O. 14014 for being responsible or complicit in, or having directly or indirectly engaged or attempted to engage in, actions or policies that threaten the peace, security, or stability of Burma.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694, as further amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that is reasonably likely to result in, or has materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that has 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. TRANS ASIA INTERNATIONAL HOLDING GROUP THAILAND COMPANY LIMITED (a.k.a. HUANYA INTERNATIONAL HOLDING GROUP), 100/20 Prasat Withee Road, Mae Sot, Tak 63110, Thailand; Organization Established Date 24 Feb 2020; Organization Type: Non-specialized wholesale trade; Registration Number 0635563000201 (Thailand) [BURMA-EO14014] [CYBER4]. Designated pursuant to section 1(a)(ii)(B) of E.O. 14014 for being responsible or complicit in, or having directly or indirectly engaged or attempted to engage in, actions or policies that threaten the peace, security, or stability of Burma.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694, as further amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that is reasonably likely to result in, or has materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that has 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.

3. TROTH STAR COMPANY LIMITED (a.k.a. "TRUST STAR COMPANY LIMITED"), No. 19, Ward No. 2, Pai Kyone, Hlaingbwe, Burma; Organization Established Date 2022; Organization Type: Construction of buildings; Registration Number 132583269 (Burma) [BURMA-EO14014] [CYBER4].

Designated pursuant to section 1(a)(ii)(B) of E.O. 14014 for being responsible or complicit in, or having directly or indirectly engaged or attempted to engage in, actions or policies that threaten the peace, security, or stability of Burma.

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694, as further amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, cyber-enabled activities originating

from, or directed by persons located, in whole or in substantial part, outside the United States that is reasonably likely to result in, or has materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that has 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.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-04652 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one person and one vessel that have been removed from the Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: 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 Actions

On March 4, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are unblocked and they have been removed from the SDN List.

1. ARCTIC VOYAGER INCORPORATED (a.k.a. ARCTIC VOYAGER INC), Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 08 Nov 2024; Identification Number IMO 0109600; Business Registration Number 128742 (Marshall Islands) [VENEZUELA-EO13850].

On March 4, 2026, OFAC also removed from the SDN List the following vessel that had been identified as property in which Arctic Voyager Incorporated has an interest:

1. KIARA M (3E2278) Crude Oil Tanker Panama flag; Vessel Year of Build 2004; Vessel Registration Identification IMO 9285823; MMSI 352002348 (vessel) [VENEZUELA-EO13850] (Linked To: ARCTIC VOYAGER INCORPORATED).

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-04681 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Reestablishment of the Taxpayer Advocacy Panel

AGENCY: Department of the Treasury.

ACTION: Notice of re-establishment of the Taxpayer Advocacy Panel (TAP)—correction.

SUMMARY: The Treasury Department has determined that it is in the public interest to reestablish the Taxpayer Advocacy Panel (TAP) and the Internal Revenue Service's Chief Executive Officer approved the TAP Public Interest Determination statement. A Charter for the TAP has been prepared and will be filed no earlier than 7 days following the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Saul Hernandez, Taxpayer Advocacy Panel Acting Director, at TaxpayerAdvocacyPanel@irs.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 8(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1008, that the Taxpayer Advisory Panel will be re-established for an additional two years beginning on the date that the charter is filed.

Public Interest Determination

The Taxpayer Advocacy Panel (TAP) is a federal advisory committee operating per the terms of the Federal Advisory Committee Act (FACA). Under the Act, no advisory committee may conduct any meeting in the absence of a charter being properly filed by the Committee Management Officer. See Federal Management Regulation, 41 CFR 102-3.70.

TAP was established in 2002 and increases opportunities for U.S. taxpayers to communicate with the IRS. TAP is made up of a cross-section of the taxpaying public with at least one member from each state, the District of Columbia and Puerto Rico, in addition to one member representing

international taxpayers. TAP is composed of approximately 75 member volunteers who help the IRS improve its services by performing grassroots outreach activities by which TAP members identify taxpayer issues.

(1) *Annual budget and expected costs broken into:*

(i) Federal personnel (based on full-time equivalent (FTE) usage basis) and other Federal internal costs: \$1,489,066

(ii) Proposed payments to members and number of members: 75 members. TAP does not have any proposed payments to members.

(iii) Reimbursable costs: \$142,125. Typically, at the beginning of the TAP year, the TAP staff coordinate and deliver an all-TAP Member Business Meeting that's held in the IRS Headquarters, Washington, DC. The cost represents two travel days and three days of covering topics, such as:

- National Taxpayer Advocate Forum
- Introductions and partnerships with the various IRS operating divisions liaisons
- TAP outreach training, social media training
- Identifying and developing grassroot projects to improve IRS service and customer satisfaction

(2) *If applicable, the total dollar value of grants expected to be recommended during the fiscal year:* Not applicable to TAP.

(3) *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:* The TAP provides citizen volunteers from across the country the opportunity to participate in the federal tax administration system. The TAP shall provide listening opportunities for taxpayers to independently identify suggestions or comments to improve IRS service and customer satisfaction through grassroots outreach efforts. In addition, the TAP has direct access to elevate improvement recommendations to the appropriate IRS business units. The TAP shall also serve as a focus group to provide suggestions and/or recommendations directly to IRS management on IRS strategic initiatives. TAP membership includes geographically and demographically varied citizen volunteers reflecting the make-up of the U.S. taxpayer population they represent. In addition, TAP considers whether a candidate is a tax professional during the selection process to ensure the committee is not made up entirely of tax professionals. In making selection recommendations, consideration is given for location to ensure all segments of the population are adequately represented on the TAP.

(4) *List of all other Federal advisory committees of the agency:*

- Art Advisory Panel of the Commissioner of Internal Revenue
- Electronic Tax Administration Advisory Committee
- Internal Revenue Service Advisory Council

(5) *Justification that the information or advice provided by the Federal advisory committee is not available from another Federal advisory committee, another Federal Government source or any other more cost-effective and less burdensome source:* The TAP directly supports the administration's priority of modernizing the IRS into a more service-wide, taxpayer-focused organization by serving as a trusted and credible grassroots' voice of the taxpayer. TAP's mission is to actively listen to taxpayers, identify systemic and emerging issues, and provide well-informed recommendations to improve IRS service and customer satisfaction. In essence, the TAP volunteers from cross-sections of the public are ambassadors on behalf of the IRS. For example, since 2023, they've dedicated more than 4,600 hours. The TAP works collaboratively with the Taxpayer Advocate Service (TAS) and IRS operating divisions including Taxpayer Services and Small Business/Self-Employed. TAP provides early, pre-decisional citizen input on strategic initiatives, programs, products, services, and key policy or operational changes that affect taxpayers. Through grassroots outreach, open meetings, a dedicated toll-free line, committee websites, and member engagement, TAP solicits, analyzes, and validates real-world taxpayer experiences nationwide. These service-wide issues are elevated through formal channels to IRS leadership, including direct access to operating divisions and the National Taxpayer Advocate, with actionable recommendations for improvement. This ongoing collaboration ensures taxpayer perspectives are meaningfully incorporated into IRS decision-making, strengthening agency programs, enhancing transparency, and improving outcomes for taxpayers across the nation.

The TAP fulfills the requirements of 41 CFR 102-3.60 because its functions require a unique, independent structure for obtaining nationwide grassroots taxpayer input that cannot be replicated through other means. Established by the Department of the Treasury in 2002 and operating under the Federal Advisory Committee Act, TAP ensures that taxpayer advice and recommendations are objective, transparent, and accessible to the public while remaining accountable to Treasury, the IRS, and

the National Taxpayer Advocate. Supported administratively by the Taxpayer Advocate Service, TAP is composed of private citizen volunteers, not IRS employees, who bring real-world experiences and community-based perspectives that internal processes cannot provide. With up to 75 members, including at least one representative and alternate from each state, Washington, DC, Puerto Rico, and a member representing U.S. taxpayers living and working abroad, TAP reflects broad geographic, demographic, and taxpayer diversity, including underserved populations. Through structured dialogue, challenge of assumptions, and consensus-based recommendations, TAP elevates taxpayer insights into IRS programs, processes, and potential enhancements. Ongoing annual recruitment and member rotation ensure fresh perspectives and sustained credibility. This independent, nationwide, citizen-driven model enables the IRS to hear directly from taxpayers in a way no other advisory mechanism can, making TAP essential to effective, inclusive, and responsive tax administration.

(6) *If the justification relates to a renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue:* The TAP is an essential corporate asset and needs to be further leveraged amongst the IRS business units when exploring, developing and implementing improvements to customer service that ultimately impact customer satisfaction. TAP's continuation is a key public-centered component to the conducting of IRS business because it provides a structured, credible, and continuous avenue for incorporating the voice of the average taxpayer into IRS decision-making something that cannot be achieved effectively through internal or ad hoc processes. Composed of citizen volunteers from all walks of life, with representation across the US, TAP fills a critical gap by giving everyday taxpayers a collective voice that complements, but is distinct from, the perspectives offered by tax professionals and industry groups. Through grassroots engagement, individual panel members elevate real-life taxpayer experiences and concerns directly to the IRS, while subcommittees work closely with IRS operating divisions on service-wide issues such as Taxpayer Assistance Centers, forms and publications, notices, toll-free lines, and taxpayer communications. This unique citizen perspective cannot be replicated through any other channel and is vital to improving IRS products, services, and

procedures while reducing burden on taxpayers. By identifying issues early and providing practical, taxpayer-centered recommendations, TAP helps the IRS avoid costly rework, improve clarity and usability, and strengthen voluntary compliance. In turn, this collaboration builds public trust by demonstrating the IRS's commitment to listening to taxpayers and continuously improving customer service, which is foundational to effective tax administration.

The TAP serves the public interest by providing an independent, transparent, and structured forum through which taxpayers can directly influence how IRS programs and services are designed and delivered. Composed of dedicated volunteers from across the country, including an international member, TAP supports the IRS mission of delivering top-quality service and helping taxpayers understand and meet their tax responsibilities by elevating grassroots issues and offering practical, taxpayer-centered recommendations. TAP members prioritize, research, document, and submit referrals to IRS program owners and collaborate on assigned projects, ensuring real-world taxpayer perspectives are incorporated into critical tax administration decisions. TAP has submitted more than 3,000 recommendations from grassroots taxpayers, which is a remarkable record for a volunteer advisory panel.

In 2024, TAP submitted 37 referrals with 380 recommendations, and in 2025, members submitted 20 referrals with 188 recommendations. Our members have conducted over 1,300 outreach activities and have dedicated over 8,000 hours of their personal time reaching over 150,000 taxpayers from December 2023 through November 2025.

Recently, the Government of Accountability Office (GAO) requested that our TAP members be part of a focus group related to in-person services provided by the IRS. The focus group is part of an open audit with the IRS Taxpayer Services division. Questions being asked of our members are shared below.

What are the challenges, if any, associated with IRS's in-person services?

What suggestions, if any, would you offer to improve the quality of IRS's in-person services?

What factors do you think are most important for IRS to consider in making decisions about the future of in-person services, including where they are located and what types of services are offered?

Some of the TAP notable accomplishments include:

- Involved in evaluating the clarity and accuracy of public facing tax product Form 8915-F, Qualified Disaster Retirement Plan Distributions and Repayments. The committee determined the form, and instructions did not effectively communicate complex guidance. The recommendations submitted in this referral to the IRS provided clarity, readability as it relates to public understanding, and reduction of burden.
- Procedural changes to the way the IRS handles 3rd party authorization and verification of taxpayers in with identity issues.
- Completely re-wrote the Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.
- Members were asked to participate in an IRS Taxpayer First focus group on the topic of service. The members influenced a process change within the IRS tollfree lines by introducing call back technology.
- Produced substantive recommendations to clarify taxpayer rights related to Form 8821.
- The members' advocacy led to influencing asynchronous communication options, and contributions to clearer installment agreement notices that strengthened taxpayers' understanding of their right to appeal.

These outcomes would not be possible without TAP's existence. By representing diverse, real-life taxpayer experiences and elevating them to IRS leadership, TAP enhances fairness, transparency, government efficiency, and customer service—strengthening public trust and voluntary compliance, which are foundational to an effective and credible tax system.

Saul M. Hernandez.

Acting Director, Taxpayer Advocacy Panel Program Office.

[FR Doc. 2026-04608 Filed 3-9-26; 8:45 am]

BILLING CODE 4831-GV-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Social Impact Partnerships To Pay for Results Act (SIPRA) Program Review

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995. Treasury has completed two rounds of funding for the SIPRA program through two releases of a Notice of Funding Opportunity (NOFO). Treasury invites comments on the revisions to the FY26 NOFO to improve the efficacy and efficiency of the application review process.

DATES: Written comments must be received on May 11, 2026.

ADDRESSES: Direct all comments to Matthew Cook, SIPRA Program Director, Office of Economic Policy, at SIPRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Matthew Cook by emailing SIPRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Agency Information Collection Activities; Proposed Collection; Comment Request; Social Impact Partnerships to Pay for Results Act (SIPRA) Program Review.

OMB Control Number: 1505-0260.

Type of Review: Revision of a currently approved collection.

Description: SIPRA, enacted February 9, 2018, amends Title XX of the Social Security Act, 42 U.S.C. 1397 *et seq.*, to provide \$100 million in funding to implement social impact partnership projects (projects) and feasibility studies for such projects. SIPRA authorizes the Secretary of the Treasury to enter into award agreements with state or local governments for projects or feasibility studies. Treasury, in consultation with other federal agencies, administers the SIPRA program. SIPRA authorizes Treasury to conduct a request for proposals for projects, make award determinations, and enter into project award agreements.

Although Treasury asked applicants to use the SF-424 and SF-425 families of common forms for their applications and reports, Treasury also solicited additional detailed information from applicants to effectively and efficiently assess and evaluate whether applications for projects comply with statutory requirements. This request includes only the burden for this additional information. The burden for the SF-424 forms is covered under OMB Control Numbers 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-

0009, 4040–0010, and 4040–0013. The burden for the SF–425 form is covered under OMB Control Number 4040–0014. The additional information includes the following components:

- *SAM.gov* registration;
- Project Narrative, to include an Executive Summary;
- Project Narrative Attachments, to include project budget, narrative statement addressing partnership agreements, an estimate of the value to the federal government of the interventions being proposed in the project, partner qualifications, independent evaluator qualifications, evaluation design plan, independent evaluator contract, outcome valuation, legal compliance, and (optional) additional supporting documentation such as a preexisting feasibility study;
- Treasury Office of Civil Rights and Equal Employment Opportunity Assurances and Certifications, Terms and Conditions, and Compliance Data;
- Additional documentation related to Title VI of the Civil Rights Act;
- Copy of application proposing privileged or confidential information to be redacted;
- Administrative Reporting, including an Annual Performance Report, Evaluation Progress Reports, and Final Evaluation Report; and
- Records Retention requirements.

Treasury has released two Notice of Funding Opportunities (NOFOs) since 2018. The first in January 2019 and the second in November 2023. Treasury is now planning to release a third round of funding in FY26. The potential FY26 NOFO is available in full for the public's review.

Use of the Data

The information collected under this NOFO: (1) Identifies eligible recipients and activities; (2) helps identify which applications sufficiently address all statutory requirements and which proposed projects are the most competitive; (3) determines the appropriate amount of funding; (4) allows evaluation of compliance with SIPPPRA and Federal laws and policies on grants (*e.g.*, Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR part 200 (herein OMB Uniform Guidance); Title VI of the Civil Rights Act); (5) tracks recipients' progress; and (6) collects statutorily mandated reports prepared by recipients' contracted independent evaluators. Other required sections in the NOFO are the following:

- The application Executive Summary will assist Treasury and the Interagency Council in streamlining the

processing of applications and optimizing the eligibility phase of application review. The application standard forms, Project Narrative, and Project Narrative attachment components of the grant application are intended to provide Treasury with the information necessary to properly evaluate and assess whether applications include statutorily mandated information. Additionally, certain components of the application, in particular the evaluation design plan and outcome valuation, will enable the Interagency Council to determine whether to make statutorily mandated certifications regarding the proposed projects.

- *SAM.gov* registration is required under the OMB Uniform Guidance.
- To comply with the OMB Uniform Guidance performance and financial monitoring and reporting requirements, 2 CFR 200.328–200.330, Treasury intends to require biannual performance and annual financial report from grant recipients. SIPPPRA also requires that recipients submit progress reports prepared by an independent evaluator on a periodic basis and before the scheduled time of outcome payments. 42 U.S.C. 1397n–4(d). SIPPPRA also requires that recipients submit a final report prepared by an independent evaluator within six months of a project's completion. 42 U.S.C. 1397n–4(e). Per the statute, Treasury will use these reports to determine if outcome payments are warranted.

- Treasury intends to require recipients under this NOFO to comply with the OMB Uniform Guidance's record retention requirement, 2 CFR 200.334, which requires them to maintain records for three years after grant close-out.

- SIPPPRA established a Commission on Social Impact Partnerships (Commission) whose principal obligation is to make recommendations to Treasury regarding the funding of SIPPPRA projects and feasibility studies. 42 U.S.C. 1397n–6. The Commission is subject to the provisions of the Federal Advisory Committee Act (FACA), which generally requires that documents made available to the Commission be made available for public inspection and copying. 5 U.S.C. app. section 10(b). Treasury may provide to the Commission all complete applications received under this NOFA from eligible applicants and would make all such applications available for public inspection and copying. However, FACA also provides that trade secrets and commercial or financial information that is privileged or confidential (confidential business information)

under the Freedom of Information Act (FOIA) need not be made publicly available. 5 U.S.C. 552(b)(4). To assist Treasury in complying with FACA's public disclosure requirements while protecting confidential business information in accordance with FOIA, Treasury requests applicants to propose redactions of confidential business information. An applicant may omit pages for which it does not propose any redactions. Treasury expects to review the redactions proposed by each applicant.

- Applicants must provide qualifications of key project personnel and partners. Applicants may voluntarily provide curriculum vitae for key project personnel and partners, but the application will not require that personally identifiable information (PII) is collected.

Planned Revisions to the Data Collection

For several reasons, Treasury revised the third SIPPPRA NOFO relative to the first two. Treasury believes that the revisions will increase the number of applications it receives, reduce the burden on applicants and stakeholders, improve the quality of applications, reduce application review time, and enhance the success of projects. Treasury is interested in receiving comments on applicants' experiences with the application process under the FY24 NOFO or the FY19 NOFO and suggestions on revisions Treasury should consider in the next NOFO to make the application and application review process more user-friendly and efficient. Treasury has a draft of the next NOFO available for the public's review. The most significant revisions Treasury made in the next NOFO are addressed below.

- Treasury returned the outcome valuation methodology to budget impact analysis (BIA) instead of benefit-cost analysis. Treasury made this change because after testing both approaches, Treasury determined that BIA is a better methodology to allow Treasury to observe value to the federal government, as required by statute, and is more efficient to implement for social impact partnerships. Treasury is interested in the public's view regarding whether there are alternative approaches to savings and value that would be preferable in place of this approach, and why those approaches are consistent with SIPPPRA statute.

- Treasury continues to ascertain how to make the application and the application review process more efficient for all parties. Treasury invites suggestions and specific strategies that

Treasury may incorporate into the next NOFO that will increase administrative efficiencies to the extent permitted under the statute and other federal laws and regulations. In the current draft, language has been simplified and clarified to attempt to ease applicant burden. In particular, Treasury has introduced language to allow applicants to apply with processes instead of particular partners due to procurement constraints.

- Under the FY24 NOFO, Treasury provided applicants five months from the date of NOFA publication to submit their applications. Treasury is interested in learning whether prospective applicants favor a shorter window of time to submit their applications, which would leave more time for project implementation, or conversely, if they favor a longer application timeframe (e.g., six—nine months), which would give applicants more time to submit their applications, but less time for project implementation. The statute does not permit Treasury to obligate funds beyond February 2028. The deadline to submit applications is expected to occur in early 2027.

- The evaluation design section has been heavily edited to make it easier to understand and develop. Treasury is interested in learning whether these changes have sufficiently addressed questions, and it would welcome comments on how long it will take to complete these evaluation design plans.

- Treasury is planning to prioritize projects that affect specific outcomes instead of weighing all outcomes equally. Treasury is interested in feedback on how this will affect whether potential applicants will apply. Treasury is also interested in whether the language of the NOFO is consistent with the goals of programs that would achieve these outcomes, and if not, what changes would it make it more likely to appeal to these programs.

Form: None.

Affected Public: State, Local, or Tribal Governments.

Estimated Number of Respondents: 25.

Frequency of Response: Once, on occasion.

Estimated Total Number of Annual Responses: 25.

Estimated Time per Response: 240 hours.

Estimated Total Annual Burden Hours: 6,000 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Rachel Miller,
Executive Secretary.

1. Basic Information

A. Federal Agency. Office of Economic Policy, United States Department of the Treasury.

B. Funding Opportunity Title. FY26 Social Impact Partnerships to Pay for Results Act Notice of Funding Opportunity.

C. Announcement Type. Initial announcement.

D. Funding Opportunity Number. UST-SIPPRA-XXX-XXX.

E. Assistance List Number. 21.017.

F. Funding Details. Treasury has made up to \$11.8 million available for projects under this NOFO.

G. Key Dates. Applicants have five months to submit an application. Treasury intends to make an award decision no later than six months after applications are received.

H. Executive Summary. The Department of the Treasury ("Treasury") is issuing this Notice of Funding Opportunity ("NOFO") to invite applications from State and local governments for awards under the Social Impact Partnerships to Pay for Results Act ("the SIPPRA statute"). An award recipient ("Awardee") will receive payment if a specified outcome of the social impact partnership project is achieved as determined by the project's independent evaluator. The payment to the Awardee must be less than or equal to the value of the outcome to the federal government over a period not exceeding ten years from the start of the project. Awards made under this NOFO will be administered by Treasury or by another federal agency with expertise in the social benefits addressed in the proposed project. Treasury expects to award up to approximately \$10.2 million in competitive project grants under this

NOFO. State and local governments receiving project grants will be eligible to receive a separate grant for up to 15 percent of the project grant amount to pay for all or a portion of the cost of a statutorily required independent evaluation, which will be paid regardless of whether outcomes have been met. Treasury expects up to approximately \$1.6 million to be available to pay for the costs of independent evaluations under this NOFO.

I. Agency contact information. Please contact Matthew Cook, SIPPRA Director, at sippa@treasury.gov or 202–821–5700.

2. Eligibility

The SIPPRA statute provides that only States, including the District of Columbia, each commonwealth, territory, or possession of the United States; federally recognized Indian tribes; and local governments are eligible applicants ("Applicant"); applications from any other entity will not be reviewed.¹ See 2 CFR part 200 for definitions of State, local government, or federally recognized Indian tribe.² Multiple agencies within a state or local government are eligible to apply, or interjurisdictional groups of state or local governments may apply together. In both cases, a lead Applicant must be identified. Each agency must have its own UEI number.

There is no cost sharing required.

3. Program Description

In 2018, Congress appropriated \$100 million to Treasury to implement the SIPPRA program. The program funds social impact projects based on achieving results.³ Treasury has offered two previous funding opportunities for pay for results projects.⁴ Under this NOFO, Treasury announces the availability of \$10.2 million for awards to implement a pay for results project.

The SIPPRA statute requires that each project achieve one or more specific, measurable outcomes that benefit society and reduce governmental outlays (i.e., provide "savings"). Identifying suitable outcomes that meet SIPPRA requirements is a critical first step for any potential Applicant considering the SIPPRA program.

Under the pay for results model, the government makes a payment only if an

¹ 42 U.S.C. 1397n–1, 1397n–12(6).

² <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1>.

³ For more information, see the program web page at <https://home.treasury.gov/services/social-impact-partnerships/sippa-pay-for-results>.

⁴ SIPPRA—Pay for Results | U.S. Department of the Treasury.

evaluation (explained in Section 3.C, Evaluation Methodology) demonstrates that the project caused the agreed-upon outcomes. Applicants must use non-federal funds to cover the initial costs of the project.

The outcome payment will not be more than the value of the outcome to the government over a maximum period of ten years from the start of the project. Applicants can propose one or more outcomes and may receive separate payments at different times for each one achieved, depending on the project design and payment requests.

The Applicant must procure an independent evaluator to confirm the project achieved the agreed-upon outcomes. Treasury will have a separate agreement with the Awardee to pay for evaluation activities. This separate agreement cannot exceed 15 percent of the total funding awarded to the Awardee. Treasury will fund this award even if the project does not meet its goals. This separate award can only be used for evaluation activities and not for other project costs. The evaluator must be objective and must not have any financial or other connections to the project that could create a potential conflict of interest.

The independent evaluator must determine whether the project achieved the expected outcome(s) following the evaluation design plan (see Section 3.C, Evaluation Methodology). If Treasury determines that the evaluation shows the applicant was successful, the federal government will make a payment or payments to the Awardee based on the agreed-upon payment schedule. Treasury will not make a payment to the Awardee if the independent evaluator has violated the terms of the award.

Eligible outcomes for an approved project are set out in Section 2052(b) of the SIPPRa statute. The SIPPRa statute provides a nonexclusive list of types of eligible projects. One-fifth of the projects in this list are types of workforce development projects, yet only one workforce development project has thus far been funded. Under this NOFO, Applicants proposing workforce development projects will be given particular consideration to help ensure that an appropriate range of subject matters are covered by SIPPRa projects and that the statutorily highlighted outcomes related to workforce development are appropriately funded. Examples of workforce development outcomes listed in the SIPPRa statute include:

- Increasing work and earnings by individuals in the United States who are unemployed for more than 6 consecutive months.

- Increasing employment and earnings of individuals who have attained 16 years of age but not 25 years of age.

- Increasing employment among individuals receiving Federal disability benefits.

- Improving the employment and well-being of returning United States military members.

Additional possible outcomes outside of those listed in statute include:

- Increasing work and earnings by individuals in the United States who are not participating in the labor force for more than 6 consecutive months.

- Increasing the persistence in paid, self-sufficient employment for individuals who have exited a federally funded public workforce program in the last six months.

- Increasing the number of individuals in the United States who participate in a registered apprenticeship while co-enrolled in the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) program.

Treasury does not expect to provide further funding opportunities under the current SIPPRa appropriation.

A. Limitations

a. Directly Benefit Children

The SIPPRa statute requires that “[n]ot less than 50 percent of all Federal payments made to carry out agreements under this section shall be used for initiatives that directly benefit children.”⁵ Treasury has met this requirement through the first two rounds of funding but must still collect information to show the overall percent of funding that directly benefits children, as defined further under Section 4.A.f.(9), Whether the project will directly benefit children.

B. Outcome Valuation Methodology

To determine the value to the federal government, Applicants must provide a budget impact analysis (BIA) as the outcome valuation methodology.⁶ BIA is a financial evaluation technique that estimates the anticipated changes in spending (savings) and revenue resulting from the proposed project.

⁵ 42 U.S.C. 1397n–2(f).

⁶ Examples of budget impact analysis may be found in appendices of Congressional Budget Office publications. See, e.g., The Effects of Potential Cuts in SNAP Spending on Households With Different Amounts of Income (2015), <https://www.cbo.gov/publication/49978>; Possible Higher Spending Paths for Veterans’ Benefits (2018), <https://www.cbo.gov/publication/44995>. An additional reference to calculate federal outlays and revenues is available from the National Bureau of Economic Research TAXSIM at <http://users.nber.org/~taxsim/>.

Reliance on BIA as the outcome valuation methodology is a change from the FY24 NOFA, which used Benefit Cost Analysis (BCA) as the outcome valuation methodology. Having used both BCA and BIA in past funding rounds, Treasury has determined that BIA is simpler to implement and better captures the value to the federal government of the project.

The statute requires the federal payment for each specified outcome to be less than or equal to the value of the outcome to the federal government over a specified period we refer to as the “valuation period.” The valuation period is selected by the Applicant but may extend for no more than ten years after the start of the intervention.⁷ See Section 4.A.f.(3), the project timeline, for a definition of valuation period.

The applicant must also select a period during which it will conduct outcome tracking for the project. We refer to the period beginning with the start of the intervention through the last day of outcome tracking as the “period of performance.” In some cases, the outcome tracking may continue beyond the intervention period; in other cases, the intervention period and period of performance may be the same. The period of performance must end by September 2032. After the period of performance, if an outcome has been met, Treasury will provide payment based on the demonstrated value of the outcome to the federal government over the entire valuation period, which may extend beyond the period of performance in order to show the projected value of an outcome for up to 10 years. For that reason, payment may be made before the end of the valuation period. The valuation period is simply a time limiting function of the BIA calculation process.

For each specified outcome, the Applicant must provide the estimated savings and value over the valuation period and the period of performance.

Over the course of the period of performance, the project must provide savings to the State or local government or to the federal government, in the form of reduced outlays.⁸

For the purposes of payment, the Applicant must only include estimates of federal savings and revenue. If the project is expected to affect state and local savings or revenue, those estimates must be presented, but *will not* be included in the outcome payment cap.

For applicants who plan to use savings from Medicaid or CHIP, see Appendix II: Integration of Managed

⁷ See 42 U.S.C. 1397n–2(c)(1)(B).

⁸ See 42 U.S.C. 1397n–1(b).

Care Information/Data for the integration of managed care information/data. This information is required to certify such changes in spending.

The following shows the steps of the calculation of BIA. Applicants must document the underlying literature, assumptions, and justifications for how the intervention will achieve the estimated savings and value in each step of the BIA calculation. The estimates must be derived from the existing research or data on the topic with clear citations for reviewers. The Applicant must detail how the existing research can be reasonably applied to their approach (*e.g.* why effect sizes from a project in Denver is relevant for the target population in Boise).

Step 1: Estimate Target Population Baseline

A. Estimate Total Amount of Federal Outlays Expended on Target Population During the Valuation Period in Dollars (Includes Cost of All Federal Programs Used by Target Population)

The Applicant must document existing federal outlays that support the target population during the valuation period. This includes, but is not limited to, programs such as the Earned Income Tax Credit (EITC), Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other relevant federal anti-poverty initiatives. This section will establish a baseline by estimating the total federal resources currently allocated to the target population in the absence of the proposed intervention. The Applicant must document the existing federal outlays over the period of performance and the valuation period.

B. Estimate Total Amount of Federal Revenue Generated by Target Population During the Valuation Period, in Dollars, if Applicable

The Applicant must estimate the total amount of federal revenue generated by the target population during the valuation period. The Applicant must estimate the existing federal revenues over the period of performance and the valuation period.

Step 2: Estimate Project Intervention Impact

C. Estimate How Much the Total Amount of Federal Outlays Expended on the Target Population Will Change as a Direct Result of the SIPRA Intervention

The Applicant must document how federal outlays will change due to achieving the outcome targets as a result

of the intervention. The outcome valuation must include increases in costs due to intended or unintended impacts of the intervention. The Applicant must carefully consider how the project intervention may cause the substitution of benefits delivered through one social program for another. Specifically, the Applicant must consider how the intervention will affect eligibility for other federal programs and how this will affect the change in outlays. For example, an intervention that increases employment could decrease participation in government assistance programs while increasing eligibility for reimbursable employment-based tax credits. Both the decrease in assistance outlays and the increase in refundable tax credit expenditures are changes in government outlays resulting from the project intervention and must be considered.⁹

In estimating the project intervention's effect on the outlays of a government program, the Applicant must carefully consider the funding structure of the program and spillover effects. For instance, if the program has more eligible individuals than funding available for services, such that when one individual is removed from the program another eligible individual replaces that individual, then it is unlikely that there is a reduction in outlays. There may also be spillover effects of providing this training to the target population to participants outside of the target population. For example, a job training program may cause the displacement of workers currently employed resulting in lower wages and higher benefit uptake for those individuals.

The Applicant must clearly show the intervention effect over the period of performance and the valuation period.

For applicants who plan to use savings from Medicaid or CHIP, see Appendix II: Integration of Managed Care Information/Data for the integration of managed care information/data. This information is required to certify such changes in spending.

D. Estimate How Much Total Federal Taxes Paid by Target Population Will Change as a Result of the Intervention

The Applicant must document how the federal taxes will change if the project reaches the assumed outcome target. Applicants must take into account tax credits and deductions

⁹ If the intervention's results would make the Awardee eligible for other federal payments during the intervention period, the estimated cost of those payments must be included in the BIA.

when estimating changes to federal taxes paid by the target population. The changes in federal tax revenues should be shown over the period of performance and the valuation period. Changes in federal tax revenues are not required for a project to be funded.

Step 3: Estimate Value of the Intervention to the Federal Government

The Applicant must measure the difference between the baseline and impact estimates. The Applicant must detail the savings (post-intervention federal outlays (C) minus baseline federal outlays (A)) and the change in revenues (post-intervention federal revenues (D) minus baseline federal revenues (B)). The "value to the federal government" is calculated as the sum of the savings plus the change in revenues. Treasury will pay no more than the value estimated in this step. As a formula, this is:

$$\text{Value} = \text{Change in Spending} + \text{Change in Revenue} = (C - A) + (D - B)$$

Applicants must include the estimated total savings, estimated savings per project participant, and estimated savings per dollar spent on the intervention. Applicants must also provide the estimated total savings over the period of performance and the valuation period.

The Applicant must also include the estimated value, estimated value per project participant, and estimated value per dollar spent on the intervention over the valuation period. Applicants must provide the estimated total value over the period of performance and the valuation period.

a. Outcome Valuation Spreadsheet

Applicants must document and submit their estimates of baseline federal revenues and outlays and estimated changes to federal revenues and outlays as a direct result of each proposed intervention in a spreadsheet so that the analyses can be replicated.¹⁰

The spreadsheet must include all formulas used and describe all data sources, such as related literature, assumptions, and justifications, used to arrive at the estimates of the changes in federal revenues and outlays as a direct result of the proposed intervention.

The estimates in the spreadsheet must include the annual and cumulative net effect of each intervention on federal revenues and outlays overall, per dollar of intervention, and per participant over the period of performance and the valuation period.

¹⁰ A tool to assist grantees in their calculations will be available on Treasury's SIPRA website.

The estimates of baseline federal outlays and revenues and the estimated federal outlays and revenues after the intervention must be rounded to the nearest hundred, rounding up any number that ends in a number greater than \$50 to the nearest \$100.

b. State and Local Outlays and Revenues

As required by SIPBRA statute, if the project's outcome target will result in changes to the state or local outlays and revenues, the Applicant is required to submit these estimates. They should be presented in a similar manner to the federal savings and value calculation explained above. However, these estimates *will not* be incorporated into the value to the federal government calculation. Treasury will use these estimates as a part of the scoring rubric (see Section 6.B, Review Criteria), and they will be presented alongside the federal estimates when selecting the final awardees.

If the investor (see Section 4.A.g.(3), Partner Qualifications for a description of investor) is a state or local government, the program costs must be included in the assessment of state and local outlays and revenues.

C. Evaluation Methodology

This section addresses the evaluation design and research methodologies.

a. Evaluation Design Plan

The Applicant must provide an evaluation design plan that includes a range of information related to design, implementation, statistics, and data. The full list of requirements is available in Section 4.A.g(4), Evaluation design plan.

The evaluation design plan may evolve during a project's early implementation period (approximately the first 12–18 months) to ensure proper measurement of project outcomes. However, outcome goals may not change without prior approval from Treasury or the administering federal agency. Grantees must submit the evaluation design plan to Treasury or the administering federal agency once it is finalized. Elements of the evaluation design plan will be posted on the Federal Interagency Council on Social Impact Partnerships (Interagency Council) website.

b. Evaluation Requirements

The SIPBRA statute requires the Awardee demonstrate that outcomes “have been achieved as a result of the intervention.” The evaluation must use rigorous methods that can reliably show this direct link. These methods are either experimental designs with

random assignment or other strong, evidence-based research methods approved by the Interagency Council when random assignment is not feasible.¹¹ These other approaches are commonly called quasi-experimental designs. The main goal of the project's independent evaluation is to determine how strongly the project can say that it caused the observed outcomes and not something else.

Randomized controlled trials (RCTs) are generally considered to be the most rigorous type of experimental design. In RCTs, a sample is randomly split into two groups—treatment and control. One group will receive the intervention and the other will continue as normal. Because people are randomly assigned to these groups, RCTs help minimize the chance that any differences in outcomes we see are due to other factors, rather than the project itself.

If randomization is not feasible, Treasury will also accept other reliable, evidence-based research methodologies often called quasi-experimental designs. These methods compare the outcomes of the group receiving the project to a similar group that did not. While they do not use random assignment, these designs use careful planning and analysis to create a comparison group that is as similar as possible to the project group. Applicants that cannot implement an RCT study will not be deemed less competitive or penalized for implementing a quasi-experimental design. These methods include regression discontinuity design, difference-in-differences, and propensity score matching, among others.

However, the application must clearly explain why randomization is not feasible and show how the Applicant plans to control for other factors without using random assignment. This could include who was selected for the project, other policies that were in place, changes in the economy, or other factors that might have influenced the results. The Applicant shall also describe how the services received by the project group will be different from what the comparison group receives.

A key part of both types of evaluations will be showing that the results are likely due to a causal effect and not chance. This is often done using a concept called statistical significance. The evaluation needs to show that the difference in outcomes between the project group and the comparison group is unlikely to have happened randomly. For purposes of the SIPBRA program, the result will be considered statistically

significant if the null hypothesis falls outside of the 80 percent confidence interval. The choice of how to best calculate standard errors and confidence intervals is left to the independent evaluator, who must follow best practices based on the identification strategy submitted in the application.

Applicants may use classical statistical analysis or Bayesian statistical analysis. For applicants using Bayesian statistical analysis, the appropriate Bayesian tests must be used to show the equivalent of classical statistical significance at the 80 percent level. Additionally, applicants using Bayesian statistical analysis must conduct prior sensitivity analysis to ensure any causal result is not due only to an overly strong assumption (a dominant prior) in the prior distribution. Applicants using this approach must use high-quality experimental or quasi-experimental evidence to justify the prior distribution.

c. Evidence Standard

The SIPBRA statute requires Treasury to consider the likelihood, based on evidence provided in the application and other evidence, that the partnership will achieve the specified outcomes. This proof must come from well-designed studies that use experiments or other reliable methods to show that the approach causes the desired results and well-conducted studies with many participants in different settings that also show the approach works.

The level of improvement the project estimates it will achieve must be based on existing research.

For each project application, a Subject Matter Expert Panel (“Panel”) will determine the strength of the evidence provided. Projects with strong or moderate evidence are generally the best fit for the SIPBRA program, but all applications will be considered.

- Strong evidence means that the evidence base can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. The evidence must support causal conclusions (*i.e.*, studies with high internal validity) and include enough of the range of participants and settings to support scaling up to the state, regional, or national level (*i.e.*, studies with high external validity). Examples include:

- (1) More than one well-designed and well-implemented experimental study or well-designed and well-implemented quasi-experimental study that supports the effectiveness of the practice, strategy, or program; or
- (2) One large, well-designed and well-implemented randomized controlled,

¹¹ 42 U.S.C. 1397n–4(c).

multi-site trial that supports the effectiveness of the practice, strategy, or program.

- Moderate evidence means that there is a reasonably developed evidence base that can support causal conclusions. There must be evidence from previous studies on the program, the designs of which can support causal conclusions (*i.e.*, studies with high internal validity) but have limited generalizability (*i.e.*, moderate external validity). This also can include studies for which the reverse is true—studies that only support moderate causal conclusions but have broad general applicability. The following would constitute moderate evidence:

(1) At least one well-designed and well-implemented experimental or quasi-experimental study supporting the effectiveness of the practice strategy, or program, with small sample sizes or other conditions of implementation or analysis that limit generalizability; or

(2) At least one well-designed and well-implemented experimental or quasi-experimental study that does not demonstrate equivalence between the intervention and comparison groups at program entry but that has no other major flaws related to internal validity; or

(3) Correlational research with strong statistical controls for selection bias and for discerning the influence of internal factors.

- Preliminary evidence means that the evidence base can support conclusions about the program's contribution to observed outcomes. The evidence base must consist of at least one non-experimental study. A study that demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn about and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include:

(1) outcome studies that track program beneficiaries through a service pipeline and measure beneficiaries' responses at the end of the program;

(2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome; or

(3) rigorous implementation studies.

d. Independent Evaluation Activities

By statute, SIPRA projects must have evaluations conducted by independent evaluators.

The federal government will fund up to 15 percent of the amount of the estimated project award (not including the cost of the evaluation) for

independent evaluation activities of the project, regardless of whether outcomes are met. The federal government will not pay for pre-award costs or the portion of an evaluator's contract contemplating evaluation work that is not completed in the event a project terminates earlier than expected.

Any activities reasonably related and necessary to the evaluation are eligible to be funded through this award. This includes paying for staff time, purchasing data access, or travel related to the project. The expected evaluation activities will need to be listed when finalizing the award.

e. Independent Evaluator

Treasury will assess the independence and experience of the evaluator. The Applicant is required to show the evaluator's experience in conducting rigorous evaluations of program effectiveness including RCTs or quasi-experimental methods on the intervention or similar interventions. Treasury may determine there is not sufficient independence or experience and request a change in the independent evaluator before making an award.

f. Agreement With Independent Evaluator

The agreement between the Awardee and the independent evaluator must address the following:

- An evaluation design and methodology that will return the causal effect of the program.

- Plan to obtain relevant datasets from various sources, for example, local agencies, state agencies, or other federal agencies, including the responsibilities of the grantee and evaluator in accomplishing this task;

- Design and coding of a management information system, as needed, that is tailored for research or evaluation, to track participants and obtain individual level data;

- Collection or assessment of individual-level data. The independent evaluator must work directly with the Applicant and other organizations to enter into one or more agreements for the access and use of the data. These agreements must include assuring data quality and adherence to all federal and state data privacy statutes and policies and data security standards;

- Institutional Review Board (IRB) approval or a plan to get IRB approval to ensure the protection of human subjects, to the extent applicable; and
- Submission of progress reports to Treasury, the Interagency Council, and the head of the relevant agency in accordance with the reporting requirements described in Section 8.B.b,

Evaluation Progress Reports and Section 8.B.c, Final Evaluation Report.

If the Applicant is unable to execute an agreement prior to the application deadline, Treasury will require the Applicant to detail how it will procure the evaluator in the application. This shall include a potential list of suitable evaluators, the steps for procuring the evaluator's contract (*e.g.*, approval by city council), and a reasonable timeframe for procuring the evaluator's contract. The process to procure the evaluator must detail how the Applicant will ensure it will meet statutory guidelines. If the Applicant is selected, it will be expected to finalize this agreement before the award will be finalized.

4. Application Contents and Format

A. Application Contents

Applications submitted in response to this NOFO must include the following:

(a) SF-424, Application for Federal Assistance;

(b) SF-424A, Budget Information for Non-Construction Programs (if applicable);

(c) SF-424C, Budget Information for Construction Programs (if applicable);

(d) SF-LLL, Disclosure of Lobbying Activities;

(e) *Grants.gov* Lobbying Form;

(f) Project Narrative

The project narrative (page limit is 20 pages) must include the following:

(1) A one-page executive summary that follows the format as laid out in Appendix I.

(2) The outcome goals of the project.

This section shall cite available research to explain how the project will achieve the specified outcome goals. This description must include the unmet need in the target population that the intervention is trying to fulfill. The Applicant must provide the highest outcome level that it reasonably expects to achieve. The Applicant may provide a reasonable estimated range that it expects to achieve, and the outcome payment cap will be set at the highest end of that range. This section must also include a theory of change and logic model for how the intervention will lead to these outcome goals building from the available research.

- *Theory of Change:* This explains the logical steps and the evidence-based reasoning behind why you believe the program's actions will lead to the intended outcomes.

- *Logic Model:* This visually maps out the project, showing the resources the Applicant will use, the activities, the immediate outputs, the short-term outcomes, and the long-term impacts. It

helps connect the project design to how the Applicant will measure and track progress.

The Applicant must also provide a summary of the value of the anticipated outcomes that is laid out in detail in section #7 of the project narrative attachments.

(3) The project timeline.

The project timeline must include an estimated duration for each phase of the project. Be sure to include the following periods:

1. Procurement and Ramp-Up Periods

- *Procurement Period:* The time needed to hire or contract with external partners, such as service providers, intermediaries, or evaluators.

- *Ramp-up Period:* The time required to prepare the project for implementation, which may include finalizing documents, hiring staff, creating data sharing agreements, and other administrative tasks. The ramp-up period concludes when the target population starts the intervention.

2. Key Project Timeframes

- *Intervention Period:* The period during which participants are actively involved in the project, from the first day they receive services to the last day they participate.

- *Period of Performance:* The timeframe from the start of the intervention period through the last day of outcome tracking. (In some cases, the outcome tracking may continue beyond the intervention period; in other cases, the intervention period and period of performance may be the same.)

- *Valuation Period:* The specific timeframe used to calculate the total financial value of a project's outcome to the federal government. This calculated value sets the cap on the maximum payment the federal government can make for that outcome.

(4) A description of each intervention in the project and a service delivery plan for delivering the intervention through a social impact partnership model.

The Applicant must provide details for how each of the chosen interventions will affect the target population. The outcome goals described above must be referenced for each of the interventions.

The service delivery plan must detail how the project will implement each intervention and include a discussion of how the project will incorporate feedback from the evaluation into its ongoing operations.

If procuring services is required, the Applicant must detail what the

procurement process will look like and how long that process typically takes.

If the Applicant does not have all funding secured at the time of application submission, the Applicant must provide a detailed fundraising plan to meet all funding requirements.

(5) The proposed payment terms.

This section must include the payment schedule, the methodology used to calculate outcome payments, and performance thresholds for defining success. These must be reasonably derived from the outcome valuation completed in Project Narrative Attachment #7. This section may include details as to how the Applicant plans to incorporate assumptions about value that is produced outside of the period of performance. The proposed payment terms must include the following:

- *Payment Schedule:* Propose a schedule for how and when payments will be made. An Applicant may propose a single payment at the end of the project or multiple payments throughout the project duration.

- *Payment Methodology:* Provide a clear formula for calculating payments, which may include potential tiers, bonuses, or penalties. This methodology must reference the evaluation design plan, including specific metrics used to measure outcomes, how the level of the outcome will be translated into value, and the independent verification process that will confirm outcomes.

- *Performance Thresholds:* Define measurable performance thresholds that will trigger payments, ranging from the minimum payment required to the maximum cap. The Panel will consider the extent to which robust payment structures incentivize desired outcomes through a well-defined methodology, schedule, and performance thresholds.

(6) The target population that will be served by the project.

This section must include a description of the target population and the criteria used to determine the eligibility of an individual for the project, including how the target population will be identified, how individuals will be referred to the project, how they will be enrolled in it, and the extent to which affected stakeholders will be engaged in the development and implementation of the project and evaluation.

(7) Social benefits.

The Applicant must also detail the expected social benefits to participants who receive the intervention and others who may be impacted.

(8) A description of whether and how the Applicant and service providers plan to sustain the intervention.

This section must include a description of whether and how the Applicant and service providers plan to sustain the intervention beyond the period of performance. The Applicant must detail the strategies for leveraging data and evidence generated from the project's activities to inform adaptation, continuation, or scaling of the project.

(9) Whether the project will directly benefit children.

This section must include a description of whether the project will directly benefit children. If so, the Applicant must specify how the project will benefit children and provide an estimate of the percentage of project participants who are expected to be children. Treasury will consider a project to "directly benefit children" if (1) the target population is children (aged 0–19 at the beginning of the intervention); or (2) the target population is parents of children or non-parental primary caregivers if the application presents strong evidence demonstrating a close logical, causal, and consequential relationship between the project's effect on parents or caregivers and the resulting positive effect on the parents' or caregivers' children. For projects where the target population is parents or primary caregivers, being a parent or primary caregiver must be part of the intervention's eligibility criteria in order to qualify as directly benefiting children. Portions of projects can directly benefit children without having the entire project directly benefit children. If a project directly benefits children, the Applicant must detail what percent of its value directly benefits children.

(g) Project Narrative Attachments

(1) *Project budget:* The Applicant must use SF-425A or SF-424C (for construction-related projects) to draft the programmatic budget, including amounts expected to be expended by partners. This is a complete estimate of how much will be spent over the course of the project. The Applicant must also provide a brief narrative for the budget, including descriptions of each line item. Please limit this narrative to 5 pages or fewer.

(2) *Partnership agreements:* The Applicant may provide an executed or draft partnership agreement between the Applicant and all project partners. If the Applicant must use a procurement process to select project partners, the Applicant may submit the process they will use to select the partners and verify that process meets the requirements listed below. This will include a timeline for how long this process will

take. The partnership agreement must address each of the following:

- i. Clearly defined roles and responsibilities of each partner;
- ii. A plan for sharing data among the partners, including a Memorandum of Understanding or Memorandum of Agreement, which may be conditioned on the award of a grant, that appropriately safeguards the privacy of individuals in the targeted population in accordance with applicable laws;
- iii. A representation that all project partners have reviewed an independent evaluation plan for the project and an agreement by all the partners to cooperate in the implementation of the evaluation plan as necessary; and
- iv. A payment arrangement between the applicant and project partners (including the intermediary and/or investors, as applicable), demonstrating that all partners understand that payment by the federal government is conditioned upon the independent evaluator's verification that the project's pre-determined outcome(s) and value generated have been met. This payment arrangement must include a plan and timeline describing each payment point that the project partners have agreed on, and the corresponding outcome targets that will be evaluated in the impact evaluation. Although the federal government generally will make payments to the grantee if the independent evaluator determines that the project achieved the specified outcome as a result of the intervention and the payment is less than or equal to the value of the outcome to the federal government, the federal government is not responsible for making payments to the Awardee's partners other than the independent evaluator.

(3) *Partner qualifications.* Please limit this to 5 pages or fewer. The Applicant must provide a description of the expertise of the project partners. If the Applicant must use a procurement process to select project partners, the Applicant may submit the process they will use to select the partners and how that process will ensure the partner has the necessary expertise.

- i. *Service provider.* Describe the expertise of each service provider that will administer the intervention, including a summary of the experience of the service provider in delivering the proposed intervention or a similar intervention, or demonstrating that service provider has the expertise necessary to deliver the proposed intervention. This description must include a discussion of the capacity of the service provider to deliver the intervention to the number of participants the State or local

government proposes to serve in the project.

- ii. *Intermediary.* Describe the intermediary's mission and goals; its experience and capacity for providing or facilitating the provision of the type of intervention proposed; information on whether the intermediary is already working with service providers that provide this intervention or an explanation of the capacity of the intermediary to begin working with service providers to provide the intervention; its experience working in a collaborative environment across government and non-governmental entities to implement evidence-based programs; its previous experience collaborating with public or private entities to implement evidence-based programs; its ability to raise or provide funding to cover operating costs, as applicable; its capacity and infrastructure to track outcomes and measure results, including its capacity to track and analyze program performance and assess program impact; its experience with performance-based awards or performance-based contracting and achieving milestones and targets; and an explanation of how the intermediary would monitor program success.

- iii. *Investor.* To the extent the Applicant intends to use investors and has not already identified and received commitments from them, the application must discuss the experience of the State or local government, intermediary, if any, or service provider in raising private and philanthropic capital to fund social service investments.

(4) *Evaluation design plan:* Provide an evaluation design plan by following the following guidelines. Please limit this to 10 pages or fewer.

Demonstrate a high-quality design by:

- (1) Explaining how the proposed evaluation is best suited for the project including an explanation for why randomization is not feasible (if applicable);
- (2) Documenting the project evaluation's research question(s), the data to be collected and analyzed, how data quality and integrity will be maintained (e.g., how attrition will be minimized), and specify overall and subgroup samples;
- (3) Describing how the project will be implemented with fidelity (e.g., how random assignment to treatment and control groups will be ensured);
- (4) Providing and justifying the selected evaluation strategy (i.e., RCT or quasi-experimental design);

(5) Explaining how the methodology will measure relevant unintended outcomes and/or negative impacts;

(6) Stating whether the design is likely to generate evidence that can support causal conclusions;

(7) Describing anticipated challenges, such as attrition, failed randomization, and oversubscription and plans to mitigate them; and

(8) Showing that the evaluation will be independent of the intervention.

Incorporate appropriate evaluation design by:

(9) Describing the metrics that will be used in the evaluation to determine whether the outcomes have been achieved as a result of the intervention including key outcomes and outcome targets; an explanation of how the metrics will be measured; and an explanation of how the metrics are independent, objective indicators of impact that are not subject to manipulation by the service provider, the intermediary, or investors, if any;

(10) Describing the statistical assumptions required to infer causal effects in the research design (e.g., absence of spillovers, identifying conditions for non-RCTs, etc.). Provide examples of how these assumptions could be violated;

(11) Proposing all important covariates that will be used in evaluation analysis, including how these measures will be operationalized, and the data used for them;

(12) Describing anticipated statistical and analytical methods (such as regression equations to be used), power calculations, and minimal detectable impacts for each proposed outcome. Please include the actual power and minimal detectable impact estimates for each proposed outcome;

(13) Describing what hypothesis testing procedure will be used (e.g., p-values), what hypotheses will be tested, and how the tests will be conducted (e.g., robust standard error estimators, etc.)

(14) Including the anticipated customized randomization plan if applicable;

(15) Describing an approach for coordinating all partners and required evaluation activities, including assisting the independent evaluator in collecting and accessing the necessary data, and include a timeline;

(16) Describing an approach for conducting an evaluation of program implementation, potentially using an implementation framework (e.g., the Consolidated Framework for Implementation Research)

(5) *Independent evaluator qualifications:* Provide a summary

explaining the independence of the evaluator from the other entities involved in the project and the evaluator's experience in conducting rigorous evaluations of program effectiveness including, where available, well-implemented RCTs and quasi-experimental analyses on the intervention or similar interventions. When discussing experience, please note both personnel and organization experience. Applicants must address the following qualifications of the evaluator. Please limit this to 3 pages or fewer.

- i. Experience working with the datasets the project expects to use;
- ii. Prior work in conducting implementation and causal impact evaluation and how their past methodologies and evaluation design experience will be used in the proposed project. Please provide examples of evaluations that they have completed of similar size, scope and complexity;
- iii. Qualifications of the key personnel designing and overseeing the evaluation and ensuring its quality, including their education or training and type and years of experience;
- iv. Experience in managing similar evaluation protocols (e.g., type of sampling, data collection, analysis); and
- v. Experience dealing with unforeseen data or implementation issues.

(6) *Independent evaluator contract or agreement.* Provide a copy of the contract or agreement to be entered into between the State or local government and the independent evaluator. The contract or agreement must address the following information.

- i. Plan to obtain relevant datasets from various sources, for example, local agencies, state agencies, or other federal agencies, including the responsibilities of the grantee and evaluator in accomplishing this task;
- ii. Design and coding of a management information system, as needed, that is tailored for research or evaluation, to track participants and/or to obtain individual level data;
- iii. Collection or assessment of individual-level data. The independent evaluator must work directly with the Applicant and other organizations to enter into one or more agreements for the access and use of the data. These agreements must include assuring data quality and adherence to all federal and state data privacy statutes and policies and to all applicable data security standards;
- iv. Institutional Review Board (IRB) approval or a plan to get IRB approval

to ensure the protection of human subjects, to the extent applicable; and

v. Submission of progress reports to Treasury, the Interagency Council, and the head of the relevant agency in accordance with the reporting requirements described in Section 8.B.b, Evaluation Progress Reports and Section 8.B.c, Evaluation Final Report.

vi. A payment plan that details the annual payment schedule that aligns with the other requirements of the independent evaluator.

The selection of an independent evaluator is subject to the procurement requirements of the Uniform Guidance, including those related to competitive procurement.¹²

An independent evaluator's experience and independence are considered in the review process. If you are unable to submit the name and qualifications of the independent evaluator when you submit the application to Treasury, you may submit in the SIPPRA application a description of the process you will use to choose an independent evaluator. That process must include the requirements noted above that will be incorporated into the independent evaluator agreement.

(7) *Outcome valuation:* Provide an attachment detailing the outcome valuation of the anticipated outcomes, as described in Section 3.B, Outcome Valuation Methodology. Applicants must provide the estimated total value and savings, estimated value and savings per project participant, estimated value and savings per dollar spent on the intervention, as well as the methodology used by the Applicant in arriving at such estimates. Applicants must cite evidence that the reviewers can assess when deriving the savings and value. Treasury requires that the Applicant provide an unprotected spreadsheet that allows a reviewer to view and manipulate all underlying data. Please limit this to 10 pages or fewer.

(8) Legal compliance for projects that include construction (if applicable): Applicants proposing a project including a construction component must identify applicable State and federal environmental laws, regulations, policies, and required environmental documents. Applicants proposing a project including a transportation component must identify applicable federal, State, and local laws relating to that component, and required permitting and licensing documents. The applicant must identify laws

¹² There are specific circumstances in which noncompetitive procurement can be used. See 2 CFR 200.320(c).

applying to the population being served and verify that the project will be in compliance with those laws. The applicant must comply with applicable federal, State, and local privacy laws. The applicant must identify any approved waivers, including but not limited to environmental or transportation laws or regulations, required by the intervention design; if waivers are pending, the applicant must include documentation that it has sought the waiver and when approval is expected. Failure to obtain a necessary waiver may be grounds for termination of a grant.

(9) An application may contain additional supporting documentation as attachments, such as an existing feasibility study.

B. Application Format

The project application must be prepared using the following formatting and organizational guidelines:

1. Number all pages.
2. Be double-spaced, with text in a single column.
3. Be a standard 12-point font, such as Times New Roman.
4. Use 1-inch margins.
5. Not exceed 20 pages in length, excluding the table of contents, appendices, or attachments. See each individual attachment for page limits.
6. As appropriate, include graphics, charts, or lists to make the information easier to review.
7. If possible, provide website links to supporting documentation rather than copies of these supporting materials. It is important to ensure that the website links are currently active, accessible, and working. Non-working links may negatively affect the review of the application.
8. If supporting documents are submitted, applicants must clearly identify within the application the relevant portion of the application that each supporting document supports.
9. Use appropriately descriptive file names (e.g., "Application," "Budget Workbook," "Letter of Support") for all attachments.
10. All file names must be prefaced with the applicant's name or initials.

5. Submission Requirements and Deadlines

A. Submission Requirements

a. Request Application Package

Applicants must apply using *Grants.gov*. Applicants can find this opportunity and all application materials and instructions in the announcement at *Grants.gov* under number 21.017.

General information for registering and submitting applications through *Grants.gov* can be found at <https://www.grants.gov/register>. Once you have located the funding opportunity in *Grants.gov*, you can find the full application under the “Package” tab. It will include a series of required forms. Information on how to apply for grants can be found at <https://www.grants.gov/applicants/applicant-registration>.

Registration is a multi-step process that may take several weeks to complete before an application may be submitted. *Grants.gov* scheduled maintenance and outage times are announced on *Grants.gov*. The deadline will not be extended due to scheduled maintenance or outages. Applicants may incur significant risk by waiting to the last day to submit by *Grants.gov*. Only applications submitted through *Grants.gov* will be reviewed. Applications submitted through email or other methods will not be reviewed.

Applications may withdraw from consideration by providing written notice to SIPPRAT@Treasury.gov at any time before an award is made.

b. Unique Entity Identifier and System for Award Management (SAM.gov)

The Applicant, if they do not have an exemption under § 25.110, must

(1) Be registered in *SAM.gov* before submitting an application;

(2) Maintain a current and active registration in *SAM.gov* at all times during which it has an active Federal award as a recipient or an application under consideration by a Federal agency. The applicant or recipient must review and update its information in *SAM.gov* annually from the date of

initial registration or subsequent updates to ensure it is current, accurate, and complete. If applicable, this includes identifying the applicant's or recipient's immediate and highest-level owner and subsidiaries, as well as providing information on all predecessors that have received a Federal award or contract within the last three years; and

(3) Include its UEI in each application it submits to the Federal agency.¹³

Treasury suggests finalizing a new registration or renewing an existing one at least one month before the application deadline to allow time to resolve any issues that may arise. Applicants must use their *SAM.gov*-registered legal name and address on all grant applications to Treasury. Treasury will not make an award if the Applicant has not complied with all applicable *SAM.gov* requirements.¹⁴ If the entity is currently registered in *SAM.gov*, the UEI has already been assigned and is viewable in *SAM.gov*.

c. Submission Instructions

Submission instructions may be found here: <https://www.grants.gov/applicants/grant-applications/how-to-apply-for-grants>.

Please contact Matthew Cook, SIPPRAT Program Director, at SIPPRAT@Treasury.gov if you have any issues.

d. Submission Dates and Times

Applications must be submitted between 9:00 a.m. Eastern Time on (one month after publication) and 9:00 p.m. Eastern Time on (five months after application). Applications must be submitted electronically through

Grants.gov. Mail, email, or facsimile (FAX) submissions will not be accepted.

All applications will be reviewed after the deadline has passed. If an applicant submits multiple versions of the same application, Treasury will review the most recent submission.

e. Intergovernmental Review

This funding opportunity is subject to Executive Order 12372, “Intergovernmental Review of Federal Programs,” as amended by Executive Order 12416. Some States require that applicants contact their State's Single Point of Contact (SPOC) to comply with the State's SPOC process established pursuant to Executive Order 12372. Names and addresses of the SPOCs are listed on the Office of Management and Budget's homepage at <https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>. Applications from federally recognized Indian tribes are not subject to intergovernmental review.

6. Application Review Information

A. Threshold Criteria

Treasury will review all applications to determine if the applicant is a State or local government and submitted all required information in the requested format. An application received from an ineligible entity or for an ineligible project will be rejected. Incomplete applications may, at Treasury's discretion, receive further consideration. Treasury expects to afford applicants a reasonable opportunity to fix any such issues, as appropriate.

B. Review Criteria

SUBJECT MATTER REVIEW SCORING RUBRIC

Category	Subcategory	Points
I. Outcome Valuation	Savings to the federal, State, and local government	15
	Value to the federal government	10
	Payment terms	5
Subtotal		30
II. Likelihood of Achieving Outcomes	Evidence demonstrating intervention can be expected to achieve desired outcome.	15
	Project plan and service delivery plan	10
	Project budget	5
	Partnerships	10
Subtotal		40
III. Quality of Evaluation	Evaluation design and metrics	10
	Evaluator independence and experience	10
	Access to data	5
Subtotal		25
IV. Capacity and Commitment to Sustain the Intervention.		5
TOTAL		100

¹³ 2 CFR 25.200(b)(3).

¹⁴ For more information about SAM, see the information provided by the General Services

Administration at <https://sam.gov/content/about/this-site>.

i. Outcome Valuation

This section has three components: value to the federal government, estimates of state and local outlays and revenues, and the proposed payment terms. The magnitude of the estimated savings or value will not be a factor in the overall score of the application.

I. Savings to Federal, State, and Local Government

SIPPRAs statute requires Treasury to take into consideration the savings to the federal, State and local governments.¹⁵ The term “savings” refers to reduced outlays, whether by the federal or State or local government, as applicable, as a result of the project.¹⁶ There must be savings to the federal, State or local government, for a project to be funded through the SIPPRAs program.¹⁷ Increased revenues as a result of the intervention are not considered savings.

A Subject Matter Expert Review Panel (“Panel”) will ensure that the Applicant meets the threshold requirement of the presence of federal, State, or local savings. Then, the Panel will assess the quality of the methodology used by the Applicant to arrive at the estimates, how likely the Applicant is to achieve these savings, and the comprehensiveness of the estimated savings. Applicants will receive higher scores for comprehensive and well-justified estimates of savings.

Applicants must include the estimated total savings, estimated savings per project participant, and estimated savings per dollar spent on the intervention over the valuation period. Applicants must also provide the estimated total savings over the period of performance.

II. Value to the Federal Government

The federal payment to the State or local government for each specified outcome achieved as a result of the intervention must be less than or equal to the value of the outcome to the federal government over a period not exceeding ten years from the date implementation commences.¹⁸ Value calculated for the purpose of this NOFO is discussed in Section 3.B, Outcome Valuation Methodology.

The Panel will determine how likely the project is to achieve the value, how accurate the justification is that the proposed intervention will produce the value proposed by the Applicant, and the comprehensiveness of the

Applicant’s estimate. The Panel will also review the data and approach to ensure it can easily be replicated and that the data would be sufficient for the analysis. Applicants will receive higher scores for comprehensive and well-justified estimates of value.

Applicants must include the estimated total value, estimated value per project participant, and estimated value per dollar spent on the intervention over the valuation period.

III. Payment Terms

The Panel will evaluate proposed payment terms to ensure a clear link between the outcome valuation and potential payments. Applications must detail the payment schedule, the methodology for calculating outcome payments, and the performance thresholds triggering payment. Applicants may propose to have one payment at the end of the project or multiple payments throughout the duration of the project.

The terms shall specify the payment calculation formula (including potential tiers, bonuses, or penalties), reference the evaluation design plan (including the metrics used to measure outcomes, the baseline data, and the independent verification process), and clearly articulate how outcome achievement translates to payment using the outcome values over the valuation period. Clearly defined and measurable performance thresholds for the requested minimum payment to the outcome payment cap are required. Applicant will receive higher scores for more detailed and realistic payment terms.

ii. Likelihood of Achieving Outcomes

The SIPPRAs statute requires Treasury to consider the likelihood, based on evidence provided in the application and other evidence, that the State or local government in collaboration with the intermediary and the service providers will achieve the specified outcomes.¹⁹ Projects showing a greater likelihood of achieving outcomes will receive more points from the Panel as detailed below.

I. Evidence Demonstrating Intervention can be Expected To Achieve Desired Outcome

The Panel will assess Applicants’ compliance with the statutory requirement to provide evidence demonstrating that the intervention can be expected to produce the estimated changes in the chosen outcomes.²⁰ The Panel will evaluate the

comprehensiveness of the presented evidence (evidence that leaves no significant gaps or unanswered questions regarding the intervention’s rationale, design, feasibility, and expected outcomes) and categorize it as strong, moderate, or preliminary (see Section 3.C.c, Evidence Standard for definitions of evidence).

Panels will also assess the extent to which the theory of change and the logic model accurately represent the causal steps necessary to understand how the intervention will cause the change in outcomes in the participants.

II. Project and Service Delivery Plan

Each intervention must clearly detail the activities the program will take to improve the lives of its target population. The Panel will review the Applicant’s identified target population, outcome goals, proposed intervention(s), and description of the unmet need in the area where the intervention will be delivered or among the target population that will receive the intervention.^{21 22} The Panel will assess the thoroughness and comprehensiveness of the Applicant’s service delivery plan for delivering the intervention.

The Panel will review the criteria used to determine the eligibility of an individual for the project, including how the target population will be identified, how individuals will be referred to the project, and how they will be enrolled in it.²³ The Panel will also review the extent to which the target population and related community will be engaged in the development and implementation of the project and evaluation.

III. Project Budget

The Panel will assess the Applicant’s project budget.²⁴ The Panel will closely review the project’s total budget as well as the budget categories listed in each respective section. The Panel will ensure the project costs are reasonable and consistent with program objectives.

IV. Project Partners

The Panel will assess the assigned responsibilities and the qualifications of the partners. This will include an assessment of the Applicant’s description of the roles and responsibilities of each entity involved in the project, including, to the extent applicable, any State or local government entity, intermediary, service

¹⁵ See 42 U.S.C. 1397n–2(b)(4)–(5).

¹⁶ *Id.*

¹⁷ See 42 U.S.C. 1397n–1(b); 42 U.S.C. 1397n–5(a)(8).

¹⁸ See 42 U.S.C. 1397n–2(c)(1)(B).

¹⁹ See 42 U.S.C. 1397n–2(b)(3).

²⁰ See 42 U.S.C. 1397n–1(c)(3), 1397n–2(c)(1)(D).

²¹ See 42 U.S.C. 1397n–1(c).

²² *Id.*

²³ *Id.*

²⁴ Budget Information for Non-Construction Programs (SF–424A).

provider, investor, or other stakeholder.²⁵ The Panel will assess the relevance and depth of expertise of each service provider and capacity of each service provider to deliver the intervention, as described by the applicant.²⁶ Likewise, the Panel will review the relevance and depth of experience of any project intermediary and the capacity of the intermediary to fill the roles assigned to it.

To the extent the Applicant intends to use investors and has not already identified and received commitments from them, the Panel will consider the experience of the State or local government, intermediary, or service provider in raising private and philanthropic capital to fund social service investments. While securing complete funding is not required at the time of application submission or when the period of performance begins, the Applicant must be able to provide a detailed overview of how and when it anticipates obtaining the investments needed to operate the program.

iii. Quality of Evaluation

I. Evaluation Design and Metrics

The SIPPR statute requires Treasury to consider the expected quality of the evaluation of the proposed intervention that the independent evaluator will conduct. The Panel will assess the project's evaluation design, including the rigor and strength of the design, its capacity to determine that the outcomes were achieved as a result of the intervention, the feasibility of implementing the evaluation, the quality and availability of the required data, and the Applicant's explanation of how the metrics used in the evaluation are independent, objective indicators of impact. The Panel will also determine whether randomization is feasible, and if not, the Panel will assess whether the reason provided by the Applicant is sufficient to allow an alternative evaluation. This assessment will be provided to the Interagency Council, which will make the final determination as to whether an evaluation method other than randomization is allowable.

II. Evaluator Independence and Experience

Panels will review the independence of the evaluator from the other entities involved in the project and the evaluator's experience in conducting rigorous evaluations of project effectiveness. Types of experience that will be reviewed include experience with the chosen evaluation design

method as applied to the intervention or similar interventions and the datasets the project expects to use, as well as experience conducting implementation and causal impact analyses, managing similar evaluation protocols, and dealing with unforeseen data or implementation issues in other program evaluations. The qualifications of the individuals designing and overseeing the evaluation and ensuring its quality, including their education or training and type and years of experience, will also be considered.

If the Applicant does not provide a letter of intent from an evaluator at the time of submission, the Applicant can detail the criteria to be used to select the evaluator through a procurement process. The criteria used to select the evaluator must be aligned with the information requested of the evaluator noted above.

III. Access to Data

Panels will assess whether the Applicant has sufficiently demonstrated that it has access to the correct data to assess the causal result of the intervention. The SIPPR statute requires that the Interagency Council certify that the independent evaluator has access to federal administrative data to conduct the independent evaluation.²⁷ If the Applicant requires federal administrative data, the Panel will assess whether it has access to all relevant data or whether there are gaps in their assumptions. This assessment will be provided to the Council, which will make the certification.

iv. Capacity and Commitment to Sustain the Intervention

The SIPPR statute requires Treasury to consider "the capacity and commitment of the State or local government to sustain the intervention, if appropriate and timely, and if the intervention is successful, beyond the period of the social impact partnership."²⁸ The Panel will consider the Applicant's submissions with respect to State or local government and service providers' plans to sustain the intervention. Although the primary focus will be on the period of performance, the Panel will provide additional points to applications that demonstrate a commitment from the State or local government and service providers and the availability of sufficient funding to extend the project, if appropriate, beyond the project period.

a. Review and Selection Process

The following is the review process for determining the award recipients. During the review process and risk assessment evaluation, Treasury may ask the Applicant to provide confirming or clarifying information. A request for confirmation or clarification does not guarantee an award. If the Applicant does not respond by the deadline to a request for information, Treasury may remove its application from consideration. Upon request, Treasury expects to provide feedback to unsuccessful applicants after grant awards have been announced.

- Phase 1: Eligibility and Completeness Review
- Phase 2: Subject Matter Expert Panel Review
- Phase 3: Consistency Review
- Phase 4: Commission Recommendations
- Phase 5: Interagency Council Certification
- Phase 6: Treasury Determination

(1) Phase 1: Eligibility and Completeness Review

In the first review phase, Treasury will review all applications to determine eligibility and completeness, which will consist of a technical review to determine whether the applicant is a State or local government; whether the proposed project can qualify as a pay for results project; whether the proposed project qualifies as an eligible project as set forth in Section 2, Eligibility; and whether each of the application content requirements set forth in Section 5, Submission Requirements and Deadlines has been satisfied. Prospective applicants are encouraged to consult the SIPPR FAQs on Treasury's SIPPR website page to help them determine if their proposed project is suitable under the pay for results model.²⁹ An application received from an ineligible entity or for an ineligible project will be rejected. Incomplete applications may, at Treasury's discretion, receive further consideration. Treasury expects to afford applicants a reasonable opportunity to fix any such issues, as appropriate.

(2) Phase 2: Subject Matter Expert Panel Review

Treasury will assign complete applications submitted by eligible applicants to a panel of subject matter experts who will be selected based on their knowledge of the social benefits or

²⁵ *Id.*

²⁶ *Id.*

²⁷ 42 U.S.C. 1397n-5(a)(8).

²⁸ 42 U.S.C. 1397n-2(b)(7).

²⁹ Department of Treasury, SIPPR—Pay for Results, <https://home.treasury.gov/services/social-impact-partnerships/sippra-pay-for-results>.

problems, technical expertise in the type of intervention, experience working with the target population that is the subject of the application, or other considerations. Panelists will be selected from relevant federal agencies. Reviewers will be screened for conflicts of interest.

The Panel will review the applications based on the criteria laid out in Section 6, Application Review Information.

(3) Phase 3: Consistency Review

Following the Panel review, Treasury will review application scores for consistency among subject matter experts on each Panel and across Panels and rank the applications. After this review, the reviewer scores will be averaged to create a ranking that will be provided to the Commission on Social Impact Partnerships.

(4) Phase 4: Commission Recommendations

SIPRA statute establishes the Commission on Social Impact Partnerships (“the Commission”) whose principal obligation is to make recommendations to Treasury regarding the funding of SIPRA program projects and feasibility studies. The nine-member advisory commission established by the Act consists of a non-federal Chair appointed by the President and eight non-federal members chosen by congressional leaders based on expertise laid out in SIPRA statute.³⁰ The Commission will review eligible applications and make recommendations to Treasury.

(5) Phase 5: Interagency Council Certification

The Act establishes the Federal Interagency Council on Social Impact Partnerships (“the Interagency Council”). This eleven-member body is chaired by the Director of the Office of Management and Budget and its other members are representatives from the Departments of Labor, Health and Human Services, Agriculture, Justice, Housing and Urban Development, Education, Veterans Affairs, and Treasury; the Social Security Administration; and the Corporation for National and Community Service. The Interagency Council’s responsibilities include certifying Federal savings, providing subject-matter expertise, and advising the Secretary of the Treasury.³¹

By statute,³² the Interagency Council will determine whether to certify the following:

- The evaluation design uses experimental designs using random assignment or other reliable, evidence-based research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible.
- The State or local government and its evaluator has access to federal administrative data.
- The application contains rigorous, independent data and reliable, evidence-based research methodologies to support the conclusion that the project will yield savings to the State or local government or the federal government if the project outcomes are achieved.
- For proposed projects that expect to provide savings to the federal government, the project will yield a projected savings to the federal government if the project outcomes are achieved.

(6) Phase 6: Treasury Determination

Treasury, after consultation with the Interagency Council, will make a final determination regarding which projects to select. Treasury may also take into account considerations set out in Section 4 of Executive Order 14332, “Improving Oversight of Federal Grantmaking.” Treasury may also give particular consideration to applications that propose workforce development projects, consistent with SIPRA’s emphasis on workforce outcomes.

b. Risk Review

As required by 2 CFR.200.206, Treasury will review the risks posed by the applicants. Treasury will consider any information about an applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently \$250,000) over the period of performance.³³

Further, as required by Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose

³² *Id.*

³³ Each applicant may review information in the designated integrity and performance systems accessible through *SAM.gov* and comment on any information about itself that a federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through *SAM.gov*. Treasury will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant’s integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in the Uniform Guidance.

in FAPIIS any information about criminal, civil, and administrative proceedings, or affirm that there is no new information to provide.³⁴ This applies to NFEs for which the total value of active grants, cooperative agreements, and procurement contracts received from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award or project. This means that Treasury may reject an application based on the information contained in FAPIIS even if the applicant otherwise achieves a high score under the 100-point scoring rubric discussed in Section 6.B, Review Criteria, above.

7. Award Notices

Before a grant is awarded, Treasury or the relevant federal agency may enter into negotiations with the applicant regarding program components, staffing and funding levels, and/or administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, Treasury or the relevant federal agency may terminate the negotiations and decline to fund the award.

Treasury expects to announce the results of this competition by FY XX (to be determined). Any notice of selection prior to a Notice of Award (NoA) is not an authorization to begin performance. Treasury will provide successful applicants with a NoA that will set forth the amount of the award, the amount for the independent evaluation, and other pertinent information. The NoA is the official document issued to obligate funds and notify an applicant that an award has been made. The NoA will also include standard Terms and Conditions and any Special Award Conditions related to participation in the SIPRA program. A copy will also be sent to the electronic mail address listed on the SF-424. After Treasury issues a NoA, Treasury or the relevant federal agency will provide the Awardee a time period to finalize pertinent documents before starting the project.

Note that any communication between Treasury, the relevant federal agency, and applicants prior to the issuance of the NoA and prior to the execution of any award agreement is not authorization to begin performance on the project.

Unsuccessful applicants will be notified of their status by electronic mail to the applicant listed on the SF-424 as soon as practicable. Unsuccessful

³⁰ 42 U.S.C. 1397n-6.

³¹ 42 U.S.C. 1397n-5.

³⁴ See 2 CFR part 200, appendix XII.

applicants may apply under subsequent NOFOs, if any.

8. Post-Award Requirements and Administration

Applicants selected for awards must agree to comply with additional applicable legal requirements upon acceptance of an award. All grants are subject to the Office of Management and Budget's (OMB's) regulatory requirements for grants, as codified in the Uniform Guidance.

A. Administrative Program Requirements

Awards under this NOFO are subject to federal laws, regulations, and policies concerning grants. Below is a non-exhaustive list of requirements with which the applicant will need to comply:

1. Lobbying Restrictions at 31 CFR part 21.
2. Government-wide Debarment and Suspension Requirements at 31 CFR part 19.
3. Government-wide Requirements for Drug-Free Workplace at 31 CFR part 20.
4. Award Term for Trafficking in Persons at 2 CFR part 175.
5. Environmental Requirements.

Treasury approval of financial assistance is subject to compliance with applicable federal and State environmental requirements. As discussed under Section 4.A.g(8), Legal Compliance, the Applicant must identify the State and federal environmental laws, regulations, and policies that may apply to the project and the environmental documents that may be required under State and federal laws. Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), project applications will be evaluated in accordance with Treasury's NEPA procedures. Grantees whose projects do not fall within Treasury's categorical exclusions will be required to assist Treasury in conducting an Environmental Assessment and an Environmental Impact Statement for the project, as applicable.

6. Non-Discrimination Laws and Regulations

All grantees, partners, and sub-recipients, if applicable, must comply with applicable non-discrimination statutes and regulations. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000–2000d7), which prohibits discrimination on the basis of race, color of national origin, and Treasury's implementing regulations, 31 CFR part 22; (b) Title IX of the Education

Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, and Treasury's implementing regulation 31 CFR part 28; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability; (d) the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1400 *et seq.*); (e) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age, and Treasury's implementing regulations, 31 CFR part 23; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Section 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; and (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing.

In implementing non-discrimination statutes and regulations, recipients must take into account applicable federal guidance, including the Department of Justice Memorandum of July 29, 2025, “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.” This funding opportunity is subject to Executive Orders regarding anti-discrimination and federal rulemaking, to the extent applicable to the SIPRA program, including Executive Order 14151, “Ending Radical and Wasteful Government DEI Programs and Preferencing,” Executive Order 14281, “Restoring Equality of Opportunity and Meritocracy,” and Executive Order 14332 “Improving Oversight of Federal Grantmaking.”

7. Transparency Act Requirements

Applicants must ensure that they have the necessary processes and systems in place to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, as amended by § 6202 of Pub. L. 110–252) (Transparency Act). All Applicants, except for those excepted from the Transparency Act, must ensure that they have the necessary processes and systems in place to comply with the

sub-award and executive total compensation reporting requirements of the Transparency Act, should they receive funding. Upon award, Applicants will receive detailed information on the reporting requirements of the Transparency Act, as described in 2 CFR part 170, Appendix A. No sub-award of an award made under this NOFO may be made to a sub-recipient that is subject to the terms of the Transparency Act unless that potential sub-recipient acquires and provides a Unique Entity Identifier.

8. Access To Records/Oversight

By accepting a project award under this NOFO, the Awardee agrees to make available to Treasury, the Comptroller General, agency Inspectors General, the administering agency, or any of their authorized representatives, all data and documents that might be needed, including contracts and agreements, regardless of whether outcomes are achieved and payment is received, in the Awardee's possession or available to the grantee. Awardees must also agree to provide timely and reasonable access to program operating personnel, project partners, and participants. This evaluation may make use of program management information system data, local administrative data, financial data, and program progress reports. It is critical that Awardees keep this information up to date and accurate for performance measurement, evaluation, and auditing purposes. Awardees may be required to: (1) provide access to pertinent documents; (2) host site visits; (3) facilitate interviews with grantee staff, partners and the independent evaluator; (4) attend grantee meetings; and (5) provide additional data. By accepting a project award under this NOFO, the Awardee also agrees to participate in a national cross-site evaluation in the event that the federal government conducts one.

9. Intellectual Property Rights

Intellectual property rights relating to the activities of the Awardee and all partners in the project, including the evaluator, intermediary, and service provider(s), are subject to 2 CFR 200.315.

10. Record Retention

Applicants must follow federal guidelines on record retention, which require Awardees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

11. Other Requirements

Awardees must comply with existing laws and regulations governing the subject area of the project and the relevant federal agency administering the project.

B. Reporting

Awardees must agree to meet the reporting requirements as listed below or as otherwise specified in the award agreement. Administrative reports must be submitted electronically to Treasury or to the relevant federal agency, as specified in the award agreement.

a. Performance Reports

Treasury or the relevant federal agency will require programmatic progress reports twice a year. A performance report form must be submitted within 30 days of June 30 and December 31 each year of the project. A final performance report is due 90 calendar days after the period of performance end date. Each report must summarize project activities, including the current stage of program implementation; progress towards achieving the outcome goals, including number of people served; significant milestones of the Awardee, intermediary, investors, if any, and evaluator; and related results of the project. It must thoroughly document the partnership activities and decision-making structure used to implement the pay for results model. These reports may be made publicly available. Upon award, Treasury or the administering federal agency will provide detailed formal guidance about the data and other information that is required to be collected and reported on either a regular basis or special request basis.

b. Evaluation Progress Reports

Not later than two years after a project has been approved and annually thereafter, the independent evaluator must submit a written report to the head of Treasury or the relevant federal agency and the Interagency Council summarizing the progress that has been made in achieving each outcome specified in the award agreement. Data in evaluation progress reports and final reports will be made available to all federal agencies represented on the Interagency Council, and data content requirements will be specified in the agreement between the grantee and the head of the relevant federal agency.

When an Awardee's intervention has achieved one or more outcomes, pre-defined outcome target(s) have been met, and the grantee wishes to receive an outcome payment in accordance with the outcome payment structure

originally proposed, the independent evaluator must submit a written report that includes the results of the evaluation conducted to determine whether an outcome payment must be made.

The report must explain the unique factors that contributed to achieving or failing to achieve the outcome in the context of the intervention. This must include, but is not limited to, any major change in policy or law that may have affected the project intervention, and the challenges faced in attempting to achieve the outcome. The report may also include information learned during the evaluation, including how to improve future service delivery or implementation.

The report must assess the degree to which the project was delivered as intended, including a discussion of how closely the project's theory and procedures aligned with actual project implementation. The report must include information related to the intervention model, including whether it has evolved and whether the intervention was delivered with fidelity to the plan. The report must detail how staffing, recruitment/identification and screening of participants, selection, and enrollment were different from what was expected at the outset.

The progress report must include an assessment by the independent evaluator of the value to the federal government as discussed and defined in Section 3.B, Outcome Valuation Methodology.

Treasury will submit these reports to the Interagency Council and to each committee of jurisdiction in the House of Representatives and Senate within 30 days of receipt.

c. Final Evaluation Report

Within six months of project completion, and no later than March 2033, the independent evaluator must submit a final report to the head of the relevant federal agency managing the award. The report must assess the effects of the intervention and include a discussion of the findings and implications, as well as a definitive statement about whether the predetermined outcomes have been met and whether the State or local government has fulfilled each obligation of the agreement. This must include information on the unique factors that contributed to the achievement or failure to achieve outcomes, including but not limited to any major change in policy or law that may have affected the project intervention, a description of the research methods (e.g., randomization of treatment and control groups, if

applicable), data, sample size and characteristics, measures, and other factors, as well as findings, including impacts—for exploratory and confirmatory, short and long-term, subgroup analyses, and other findings.

The report must also assess whether, and the degree to which, the project was delivered as intended. This must include a discussion of how closely the project's theory and intended procedures aligned with actual project implementation. This portion of the report must include information related to the intervention model, including whether it has evolved and whether the intervention was delivered with fidelity; staffing; recruitment/identification and screening of participants; selection and enrollment; and how the intervention was implemented. The report must also discuss information regarding the improved future delivery of this or similar interventions.³⁵

The report must also detail how the unique characteristics of the pay-for-results model assisted or hindered the implementation of the project. Potential questions include what the evaluators are learning about the feasibility/viability of the pay-for-results approach; whether the financing/managerial structure is incentivizing the right partners in the right ways; and challenges in implementing the pay-for-results model in areas such as project management, partner communication, dispute resolution, investor relations, and overseeing service provision.

The independent evaluator's final report for a project must include an assessment of the value to the federal government as discussed and defined in Section 3.B, Outcome Valuation Methodology. In calculating the value to the federal government of the completed outcome(s), the independent evaluator may only take into consideration the value from the outcome valuation.

Treasury will submit this report to the Interagency Council and to each committee of jurisdiction in the House of Representatives and Senate within 30 days of receipt. This report will be made publicly available.

Appendix I: Executive Summary

[Name of Applicant]
[Name of Project]

Project Award Requested Amount.	\$
Children/Non-Children	\$/\$
Requested Award as Percent of Overall Project Budget.	(XX%)
Award Period	XX 20XX–XX 20XX
Period of Performance	XX 20XX–XX 20XX
Independent Evaluator	XX
IE Award Requested Amount	\$XX

³⁵ 42 U.S.C. 1397n–4(e).

Independent Evaluation Date(s).	XX 20XX, etc.

*Project Description:**Target Population and Eligibility Criteria
(including estimated number of participants):**Partners:**Evaluation Method:**Outcome Target(s):**Summary of Value to the Federal
Government:**Proposed Payment Terms:***9. Appendix II: Integration of Managed
Care Information/Data***For Applicants Who Plan To Use Savings
From Medicaid or CHIP: Integration of
Managed Care Information/Data*

Treasury anticipates that applicants may have projects affecting individuals who receive managed care services from Medicaid or CHIP. To ensure that the calculations of benefits from reduced health care spending in these contexts properly demonstrate that those benefits accrue to the federal government or other public payers rather than to managed care organizations, applicants proposing projects that include a managed health care component must include a section in their application entitled “Managed Health Care Information.” This section must include, at a minimum, answers to the following questions, as applicable:

- To what degree will participants in the intervention be covered by comprehensive, risk-based managed care during the period of the demonstration?
- For intervention participants covered by a managed care organization, how would savings accrue to the federal government rather than the entity taking on risk?
- What services, if any, will be carved out of managed care for this population?
- If multiple capitation rates are used, which rate cells (by eligibility group or other category) will be used for the SIPRA program project participants?
- With what frequency will capitation rates for the population covered by comprehensive, risk-based managed care be redetermined during the period of the SIPRA program project?
- How would this intervention lead to reduced capitation rates?
- While the level of impact cost and utilization data will have on a capitation rate will vary, if the anticipated intervention effect is small and/or the population impacted by the intervention makes up a relatively small proportion of the rate cell (or grouping of Medicaid beneficiaries with similar characteristics for the purposes of determining a capitation rate), it may be unlikely that the effect will be large enough to change the capitation rate, even if the cost and utilization reductions occur. Is the impact of the intervention effect (or impacted population size) meaningful relative to size of the managed care program?
- For the population covered by managed care, what proportion of individuals covered under the relevant rate cell(s) are participants in the intervention?

- Is the proportion sufficient to trigger changes in the capitation rate under current procedures? If not, please be specific about how you will work with the State Medicaid Agency to ensure cost and utilization changes among this population due to the intervention are captured and incorporated into adjustments to the capitation rate.

- Please clarify if you will have access to robust historical (e.g., at least 2 years) data to ensure that the comparison group is matched as well as possible to the actual cost or claims data to accurately assess federal savings through the evaluation.

- Please note that lags in realization of governmental savings in managed care contexts, relative to those in Fee for Service contexts, will not preclude consideration so long as the savings are realized within the ten-year time period and the BIA procedures discussed above are followed.

[FR Doc. 2026-04685 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF THE TREASURY**Reestablishment of the Federal
Advisory Committee on Insurance****AGENCY:** Department of the Treasury.**ACTION:** Notice of reestablishment of the Federal Advisory Committee on Insurance (FACI).

SUMMARY: The Treasury Department has determined that it is in the public interest to reestablish the FACI. A Charter for the FACI has been prepared and will be filed with Congress no earlier than seven (7) days following the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: John Gudgel, Senior Regulatory Insurance Policy Analyst, Department of Treasury, (703) 362-2684.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001-1014), the Department of the Treasury (Department) intends to reestablish the FACI. Following the issuance of Executive Order 14217 “Commencing the Reduction of the Federal Bureaucracy” on February 19, 2025, Treasury leadership conducted a review of all the Department’s federal advisory committees and determined that it was in the public interest for the FACI to be reestablished following the lapse of its previous charter.

Objectives and Duties

The FACI’s purpose is to provide advice and recommendations to the Federal Insurance Office (FIO) regarding FIO’s duties and authorities, which include monitoring all aspects of the insurance industry, identifying issues or

gaps in regulation of insurers that could contribute to crisis in the insurance industry or U.S. financial system, and consulting with states regarding insurance matters of national importance. The FACI allows FIO to receive timely information and benefit from the knowledge and regulatory experience of state insurance regulators and state legislators, as well as the experience and perspective of industry and academic experts. The advice and recommendations may cover specific or general insurance topics, processes, studies and/or reports. FIO’s duties and authorities are set out in Subpart A of the Federal Insurance Office Act of 2010 (31 U.S.C. 313 *et seq.*), Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 12 U.S.C. 5301 *et seq.* (July 21, 2010). The FACI will conduct its work at the direction of FIO. The Director of FIO (or designee), will determine what Treasury information will be disseminated to the FACI for its use or consideration.

The FACI shall be a continuing advisory committee with an initial two-year term, subject to two-year reauthorizations at the discretion of the Secretary of the Treasury. Going forward, the FACI would serve as a unique forum allowing direct feedback from insurers, reinsurers, brokers, private equity firms, state insurance regulators, consumer advocates, and other insurance sector stakeholders on a range of topics.

The duties of the FACI shall be solely advisory and shall extend only to the submission of advice and recommendations to FIO, which shall be non-binding. No determination of fact or policy shall be made by the FACI.

Membership

The body of the FACI shall consist of up to 25 members. The Department shall assure that the FACI reflects balanced membership and includes a cross-section of members representative of the views of state and non-government persons having an interest in the duties and authorities of FIO, such as: (1) state and tribal insurance regulators, legislators, and/or other officials, (2) insurance industry experts such as insurers, reinsurers, and brokers, and (3) consumer advocates, academics, and/or experts in the issues facing insurance consumers, including underserved insurance communities and consumers.

The FACI shall meet at such intervals as are necessary to carry out its duties. It is estimated that the FACI will generally meet four times per year,

virtually or in person. Generally, FACI meetings are open to the public. Nominations for membership will be

solicited in a subsequent notice in the **Federal Register**.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2026-04693 Filed 3-9-26; 8:45 am]

BILLING CODE 4810-AK-P



FEDERAL REGISTER

Vol. 91

Tuesday,

No. 46

March 10, 2026

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 218

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar in the Western and Central North Pacific Ocean and Eastern Indian Ocean; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 260304–0065]

RIN 0648–BN61

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar in the Western and Central North Pacific Ocean and Eastern Indian Ocean

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

ACTION: Proposed rule; proposed letter of authorization; request for comments.

SUMMARY: NMFS has received a request from the U.S. Department of the Navy (Navy) for Incidental Take Regulations (ITR) and an associated Letter of Authorization (LOA) pursuant to the Marine Mammal Protection Act (MMPA). The requested regulations would govern the authorization of take of marine mammals incidental to training and testing activities using Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA) sonar systems in the western and central North Pacific and eastern Indian oceans over the course of 7 years from August 2026 through August 2033. NMFS requests comments on this proposed rule. NMFS will consider public comments prior to making any final decision on the promulgation of the requested ITR and issuance of the LOA; agency responses to public comments will be summarized in the final rule, if issued. The Navy's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA) and the NDAA for Fiscal Year 2019 (2019 NDAA).

DATES: Comments and information must be received no later than April 9, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2025-0999>. You may submit comments on this document, identified by NOAA–NMFS–2025–0999, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type

NOAA–NMFS–2025–0999 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Ben Laws, Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

- **Fax:** (301) 713–0376; Attn: Ben Laws.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing at: <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

A copy of the Navy's Incidental Take Authorization (ITA) application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT:

Alyssa Clevestine, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Purpose and Need for Regulatory Action**

This proposed rule, if promulgated, would provide a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the Navy's training and testing activities (which qualify as military readiness activities) using SURTASS LFA sonar in the western and central North Pacific Ocean and eastern Indian Ocean (see figure 2–1 of the rulemaking and LOA application (hereafter referred to as the application)). Please see the Legal Authority for the Proposed Action section for relevant definitions.

Legal Authority for the Proposed Action

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review and the opportunity to submit comment.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking; other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (collectively referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The MMPA defines “take” to mean to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362). The Preliminary Analysis and Negligible Impact Determination section discusses the definition of “negligible impact.”

The 2004 NDAA (Pub. L. 108–136) amended section 101(a)(5) of the MMPA to remove the “small numbers” and “specified geographical region” provisions (16 U.S.C. 1371(a)(5)(F)) and amended the definition of “harassment” in section 3(18)(B) of the MMPA as applied to a “military readiness activity” to read as follows: (1) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (2) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment) (16 U.S.C.

1362(18)(B)). The 2004 NDAA also amended the MMPA to establish in section 101(a)(5)(A)(iii) that “[f]or a military readiness activity . . . , a determination of ‘least practicable adverse impact’ . . . shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity” (16 U.S.C. 1371(a)(5)(A)(iii)). On August 13, 2018, the 2019 NDAA (Pub. L. 115–232) amended the MMPA to allow ITRs for military readiness activities to be issued for up to 7 years (16 U.S.C. 1371(a)(5)(A)(ii)).

Summary of Major Provisions Within the Proposed Rule

The major provisions of this proposed rule are as follows:

- The proposed authorization of take of marine mammals by Level A harassment and Level B harassment;
- The proposed use of visual, passive acoustic, and active acoustic monitoring mitigation;
- The proposed implementation of geographic activity limitations including within 22 kilometers (km) (12 nautical miles (nmi)) of any emergent land and in certain offshore areas and times that are biologically important (*i.e.*, for foraging, migration, reproduction) for marine mammals;
- The proposed implementation of a Notification and Reporting Plan (for dead, live stranded, or marine mammals struck by any vessel engaged in military readiness activities); and
- The proposed implementation of a robust monitoring plan to improve our understanding of the environmental effects resulting from the Navy’s training and testing activities.

This proposed rule includes an adaptive management component that allows for timely modification of mitigation, monitoring, and/or reporting measures based on new information, when appropriate.

Summary of Request

On April 6, 2025, NMFS received an application from the Navy requesting authorization to take marine mammals, by Level A and Level B harassment, incidental to training and testing activities (characterized as military readiness activities) using SURTASS LFA sonar in the western and central North Pacific Ocean and eastern Indian Ocean. The Navy is requesting one 7-year LOA for training and testing activities. In response to our comments and following an information exchange, the Navy submitted a revised application, deemed adequate and complete on July 1, 2025. The Navy’s

request is for take of 44 species of marine mammals by Level B harassment and a subset of those species by Level A harassment (9 species). On July 11, 2025, we published a notice of receipt (NOR) of application in the **Federal Register** (90 FR 30877), requesting comments and information related to the Navy’s request for 30 days. During the 30-day public comment period on the NOR, we received one public comment from Turtle Island Restoration Network requesting that NMFS deny the Navy’s ITA request and consider alternatives that prioritize avoiding critical habitats, reducing sonar intensity, or limiting operational time frames. NMFS reviewed and considered all submitted material during the drafting of this proposed rule.

NMFS has previously promulgated ITRs pursuant to the MMPA relating to similar military readiness activities using SURTASS LFA sonar. NMFS published the first rule effective August 15, 2002 through August 15, 2007 (67 FR 46712, July 16, 2002), the second rule effective from August 16, 2007 through August 15, 2012 (72 FR 46846, August 21, 2007), the third rule effective from August 15, 2012 through August 15, 2017 (77 FR 50290, August 20, 2012), and the fourth rule effective from August 12, 2019 through August 11, 2026 (84 FR 40132, August 13, 2019). Of note, on August 10, 2017, the Secretary of Defense,¹ after conferring with the Secretary of Commerce, determined that it was necessary for the national defense to exempt all military readiness activities that use SURTASS LFA sonar from compliance with the requirements of the MMPA for 2 years from August 13, 2017, through August 12, 2019, or until such time when NMFS issues regulations and a LOA under title 16, section 1371 for military readiness activities associated with the use of SURTASS LFA sonar, whichever is earlier. For this proposed rulemaking, the Navy proposes to conduct substantially similar training and testing activities using SURTASS LFA sonar that were conducted under previous rules.

The Navy’s application reflects the most up-to-date compilation of training and testing activities deemed necessary to accomplish military readiness requirements. The types and numbers of activities included in the proposed rule account for interannual variability in training and testing to meet evolving or emergent military readiness

requirements. In this proposed rule, we have undertaken a comprehensive assessment of the impacts of all SURTASS LFA sonar training and testing activities on marine mammals likely to be present within the western and central North Pacific Ocean and eastern Indian Ocean in the area described below.

Description of Proposed Activity

Overview

The Navy requests authorization to take marine mammals incidental to conducting military readiness activities. The Navy has determined that acoustic stressors are likely to result in take of marine mammals in the form of Level A and Level B harassment. Descriptions of these activities are provided in the Navy’s application (<https://www.fisheries.noaa.gov/action/incidental-take-authorization-united-states-navys-surveillance-towed-array-sensor-system-low>), with additional detail provided in chapter 2 and appendix F of the 2025 SURTASS Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (2025 SURTASS Draft SEIS/OEIS) (<https://www.nepa.navy.mil/surtass-lfa/>) which are summarized here.

The Navy’s statutory mission is to organize, train, equip, and maintain combat-ready naval forces for the peacetime promotion of the national security interests and prosperity of the United States, including deterring maritime aggression and maintaining freedom of navigation in ocean areas. This mission is mandated by Federal law (10 U.S.C. 8062), which requires the readiness of the naval forces of the United States. Due to the advancements and use of quieting technologies in diesel-electric and nuclear submarines, undersea submarine threats have become increasingly difficult to locate solely using passive acoustic technologies. At the same time, the distance at which submarine threats can be detected has been decreasing due to these quieting technologies, and improvements in torpedo and missile design have extended the effective range of these weapons. To meet the requirement for improved capability to detect quieter and harder-to-find foreign submarines at greater distances, the Navy developed and uses SURTASS LFA sonar.

Dates and Duration

The specified activities would occur at any time during the 7-year period of validity of the regulations, from August 12, 2026 through August 11, 2033. The

¹ Pursuant to Executive Order 14347, “*Restoring the United States Department of War*,” (90 FR 43893), as of September 5, 2025, the “Secretary of Defense” is authorized to use the additional secondary title of “Secretary of War.”

proposed number of military readiness activities are described in the Detailed Description of the Specified Activity section. <i>Geographic Region</i> The Pacific SURTASS LFA Sonar Study Area includes the western and central North Pacific Ocean and Eastern Indian Ocean, not including the Western Indian Ocean or Sea of Okhotsk (figure 1). Please refer to figure 2–1 of	the application for a color map of the Study Area. The Study Area remains unchanged from the previous rulemaking (84 FR 40132, August 13, 2019) (see also the 2019 SURTASS SEIS/OEIS (U.S. Department of the Navy, 2019)). Importantly and as described in greater detail in the Proposed Mitigation section, in areas within 22 km from any emergent land (coastal standoff range (CSR)) and in areas outside of the CSR	identified as offshore biologically important areas (OBIAs), SURTASS LFA sonar training and testing would be conducted such that received levels of LFA sonar are below 180 decibels referenced to 1 microPascal (dB re 1 µPa) root-mean-square (RMS) sound pressure level (SPL). This restriction would be observed year-round for the CSR and during known periods of biological importance for OBIAs. BILLING CODE 3510–22–P

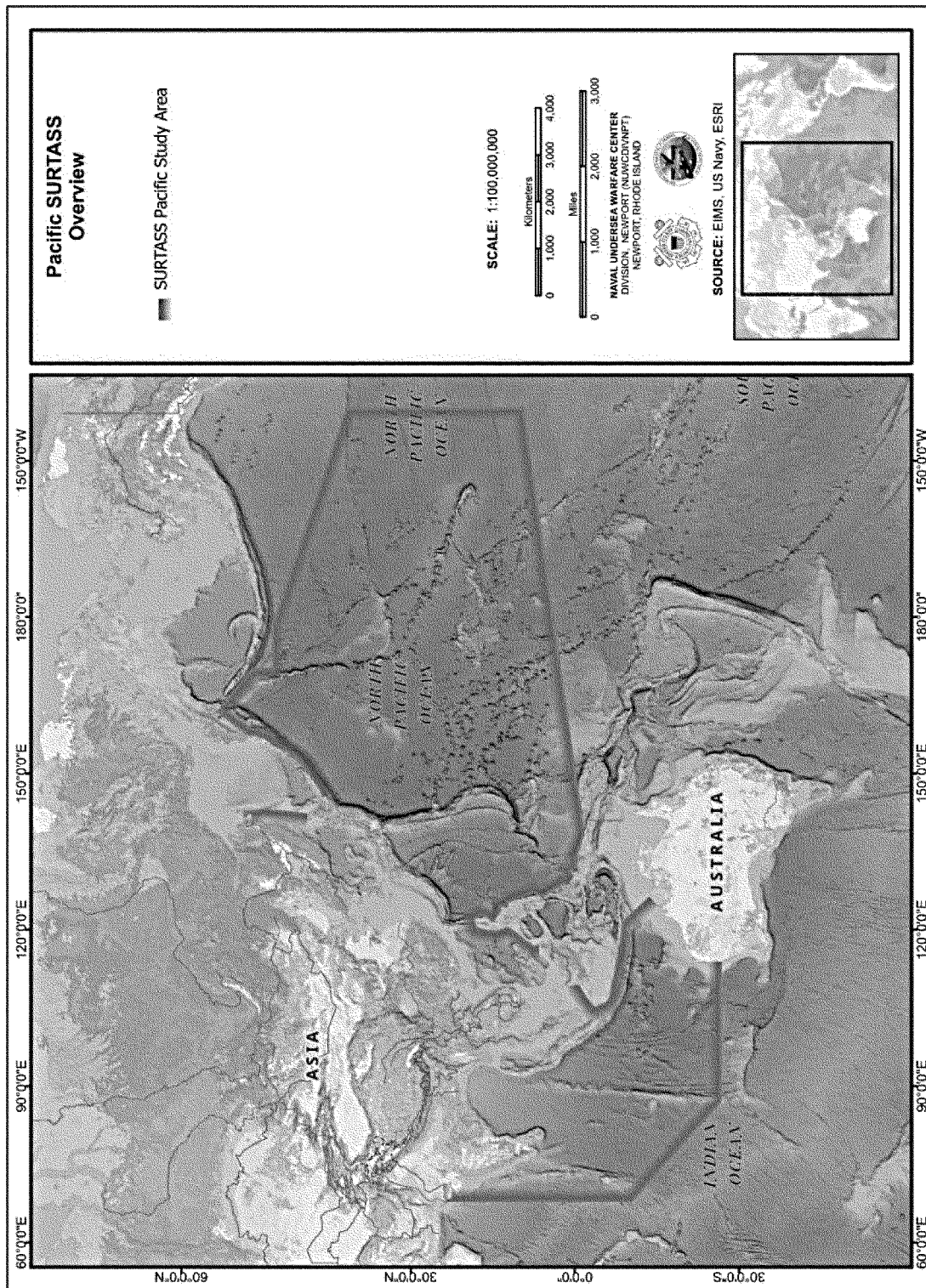


Figure 1 -- Map of the Pacific SURTASS LFA Sonar Study Area

BILLING CODE 3510-22-C

Detailed Description of the Specified Activity

The Navy proposes to use 1,100 hours of SURTASS LFA sonar per year. The analysis for the current SURTASS LFA incidental take regulations (84 FR 40132, August 13, 2019) analyzed the

use of 592 hours. The change from 592 to 1,100 hours does not reflect new or additional training requirements. Instead, it is the result of a change in how the Navy counts an "hour" of transmission. Previously, SURTASS LFA sonar hours were calculated by adding the portions of time a sonar emits sound during its duty cycle (ratio

of time the signal is on compared to off), whereas other Navy sonar systems, such as mid-frequency and high-frequency active sonar (MFAS and HFAS, respectively), report hours based on "duration" time (total time the source is active, including silent periods between pings). To bring SURTASS LFA sonar in line with these other systems, the Navy

developed a conversion method that considers various factors including LFA sonar pings, wave trains, and other classified considerations. As a result, the 1,100 hours of annual SURTASS LFA training proposed are equivalent to the 592 hours under the previous counting method. The SURTASS LFA sonar transmission hours, which are classified as military readiness activities pursuant to the section 315(f) of Public Law 101–314 (16 U.S.C. 703), represent a distribution across three activities that include:

- Training (*i.e.*, contractor crew proficiency training, military crew proficiency training, active training);
- Maintenance and upgrade (*i.e.*, equipment maintenance checks and performance evaluations); and
- Exercises (*e.g.*, Valiant Shield, Rim of the Pacific (RIMPAC)).

Compared to the 2019 final rule (84 FR 40132, August 13, 2019), the geographic bounds of the Study Area and geographic mitigations remain the same, as do the operating characteristics of SURTASS LFA sonar system, which remains the only stressor with the potential to cause take during SURTASS training and testing activities. Although the sonar hours are calculated differently between the 2019 final rule and current proposed rulemaking (592 hours and 1,100 hours, respectively), the active sonar duration remains the same as analyzed for the 2019 rule. All of the acoustic thresholds and take calculation methods used here are referred to as “Phase IV” and described in the technical report “Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase 4)” (U.S. Department of the Navy, 2025) (hereafter referred to as the Criteria and Thresholds Technical Report) mirroring those used in analyses supporting the Phase IV AFTT (90 FR 50504, November 7, 2025) and HCTT (90 FR 58810, December 17, 2025) training and testing regulations. Alternatively, in the previous SURTASS LFA sonar rule (84 FR 40132, August 13, 2019), Phase III thresholds were used for acoustic injury prediction, a SURTASS-specific threshold was used to predict behavioral disturbance, and different SURTASS-specific methods and modeling were used in the calculation of take. This proposed rulemaking proposes to authorize take of marine mammals by Level A harassment that was not previously requested or authorized in the 2019 final rule. This change is due to updated marine mammal hearing thresholds, the criteria for estimating impacts to marine mammals, and the Navy’s reliance on their Navy Acoustics Effects Model

(NAEMO) rather than the Acoustic Integration Model (AIM), which was used to model and quantify estimated take for the 2019 rulemaking. These changes are described in the *Marine Mammal Hearing Groups* section, the *Estimated Take of Marine Mammals* section, and the *Navy Acoustic Effects Model* section. This proposed rule also includes five new marine mammal OBAs for SURTASS LFA sonar, as described in the *Geographic Mitigation* section of this proposed rule.

The Navy describes and analyzes the effects of their activities within the application and provides additional details in the 2025 SURTASS Draft SEIS/OEIS. In their assessment, the Navy concluded that the transmission of acoustic signals was the only stressor likely to result in impacts on marine mammals that qualify as harassment as defined under the MMPA. Therefore, the Navy’s application provides their assessment of potential effects from this stressor.

SURTASS LFA Sonar System

Sonar is an acronym for “sound navigation and ranging” and its definition includes any system that uses underwater sound or acoustics for observations and communications. The two basic types of sonar used in the SURTASS LFA sonar system are passive sonar and active sonar. Passive sonar detects sound created by a source. This is a one-way transmission of sound waves through water from the source to the receiver. Very simply, passive sonar “listens” without transmitting any sound signals. Active sonar is the transmission of sound energy for the purpose of sensing the environment by interpreting features of received signals. Active sonar detects objects by creating a sound pulse or “ping” that is transmitted from the sonar system through the water, reflects off a target object, and returns in the form of an echo to be detected by a receiver. Active sonar is a two-way transmission of sound waves through water (sound source to reflector to receiver).

SURTASS LFA sonar is a system with three components: low-frequency (less than 1,000 hertz (Hz)) active sonar system, passive sonar system, and active high-frequency/marine mammal monitoring (HF/M3) sonar (see figure 1–1 of the application). The passive component is the SURTASS receiver array while the active component includes the LFA sonar source array and HF/M3 sonar.

Although SURTASS LFA sonar vessels usually operate independently from one another, SURTASS LFA sonar vessels may operate in conjunction with

other naval air, surface, or submarine assets as part of naval exercises. SURTASS LFA sonar vessels generally travel in straight lines or racetrack patterns depending on the scenario. When the SURTASS or LFA sonar arrays are deployed, a SURTASS LFA sonar vessel must maintain a speed of at least 5.6 kilometers per hour (km/hr) (3 knots), with a typical speed of 7.4 km/hr. When not towing the SURTASS or LFA sonar arrays, Tactical-Auxiliary General Ocean Surveillance (T-AGOS) vessels travel at maximum speeds of approximately 22.2 km/hr. Movements of SURTASS LFA sonar vessels are not unusual or extraordinary and are in line with routine operations of seagoing vessels.

Low-Frequency Active (LFA) Sonar

LFA sonar is employed when active sound signals are needed to detect and track underwater targets of interest. LFA sonar complements SURTASS passive activities by actively acquiring and tracking submarines when they are in quiet operating modes, measuring accurate target range, and re-acquiring lost contacts. LFA sonar consists of a vertical source array of sound-producing elements that are suspended by cable under one of the T-AGOS vessels. These elements, called projectors, are devices that produce the active sonar sound pulses or pings. To produce a ping, the projectors transform electrical energy into mechanical energy (*i.e.*, vibrations), which travel as pressure disturbances in water.

The LFA sonar source is a vertical line array consisting of up to 18 projectors. Each LFA projector transmits sonar beams that are omnidirectional (360 degrees) in the horizontal, with a narrow vertical beamwidth that can be steered above or below the horizontal. The operating features of the LFA sonar are as follows:

- The source level (SL) of an individual projector on the LFA sonar array is approximately 215 dB re 1 μ Pa RMS SPL or less;
- For the array SL, the effective SL of the system design was used; effective SL is a theoretical value, hypothetically measured at 1 meter (m) from the array on its horizontal axis, calculated from the formula: $SEL + 20 \log_{10}(N)$, where sound exposure level (SEL) = SL of an individual projector and N = number of projectors;
- The source frequency ranges from 100 to 500 Hz;
- The typical LFA sonar signal is not a constant tone but consists of various waveforms that vary in frequency and duration. A complete sequence of sound transmissions (waveforms) is referred to

as a wavetrain (also known as a ping). These wavetrains last between 6 and 100 seconds, with an average length of 60 seconds. Within each wavetrain, a variety of signal types can be used, including continuous wave and frequency-modulated signals. The duration of each continuous frequency sound transmission within the wavetrain is no longer than 10 seconds;

- The maximum duty cycle (ratio of sound “on” time to total time) is 20 percent. The typical duty cycle, based on historical SURTASS LFA sonar operational parameters (from 2003 to 2017), is 7.5–10 percent; and
- The time between wavetrain transmissions typically ranges from 6 to 15 minutes.

Compact LFA Active Component

In addition to the LFA sonar system currently deployed on the T-AGOS vessel United States Naval Ship (USNS) IMPECCABLE, the Navy developed a compact LFA (CLFA) sonar system, which is now deployed on its three smaller T-AGOS vessels (USNS ABLE, USNS EFFECTIVE, and USNS VICTORIOUS). The operational characteristics of the active component for the CLFA sonar system are comparable to the LFA sonar system and the potential impacts from the CLFA sonar system will be similar to the effects from the LFA sonar system. The CLFA sonar system consists of smaller projectors that weigh 64,410 kilograms (kg), which is 82,554 kg less than the weight of the LFA projectors on the USNS IMPECCABLE. The CLFA sonar system also consists of up to 18 projectors suspended beneath the surveillance vessel in a vertical line array, and the CLFA sonar system projectors transmit in the low-frequency band (also between 100 and 500 Hz) with the same duty cycle as described for LFA sonar. Similar to the active component of the LFA sonar system, the source level of an individual projector in the CLFA sonar array is approximately 215 dB re 1 μ Pa or less.

For the analysis in this rulemaking, NMFS will use the term LFA to refer to both the LFA sonar system and/or the CLFA sonar system, unless otherwise specified.

Passive Acoustic System

SURTASS is the passive, or listening, component of the system that detects returning sounds from submerged objects, such as threat submarines, through the use of hydrophones. Hydrophones transform mechanical energy (*i.e.*, received acoustic sound waves) into an electrical signal that can be analyzed by the sonar processing

system. The return (received) signals, which are usually below background or ambient noise level, are processed and evaluated to identify and classify potential underwater threats. SURTASS consists of a twin-line (TL-29A), “Y” shaped horizontal line array of hydrophones with two apertures that is approximately 305 m (1,000 feet) long. The SURTASS horizontal line array can be towed in shallow, littoral environments; can provide significant directional noise rejection; and can resolve bearing ambiguities without the vessel’s course having to be changed.

High-Frequency/Marine Mammal Monitoring Active (HF/M3) Sonar

The HF/M3 sonar is a Navy-developed, enhanced high-frequency (HF) commercial sonar used as a mitigation and monitoring asset to detect, locate, and track marine mammals that may pass close enough to the SURTASS LFA sonar’s transmit array to enter the LFA mitigation zone (1.8 km (2,000 yards)). This intermittent source has a low-duty cycle and would operate at a SL of 220 dB re 1 μ Pa at 1 m RMS SPL and source frequencies between 30 and 40 kHz, with maximum pulse length of 40 milliseconds and a variable duty cycle that is nominally 3–4 percent.

Vessel Movement

The Navy currently deploys SURTASS LFA sonar on four T-AGOS vessels that are 72–86 m in length, with twin-shafted diesel electric engines capable of providing 3,200–5,000 horsepower. T-AGOS vessels have a catamaran-type split-hull shape and an enclosed propeller system, and the bridge of T-AGOS vessels are positioned forward of the centerline, offering good visibility ahead of the bow and good visibility aft to visually monitor for marine mammals. Each vessel has an observation area on the bridge that is more than 9.1 m above sea level from where Lookouts will monitor for marine mammals whenever SURTASS LFA sonar is transmitting.

NMFS considered the likelihood that vessel movement during military readiness activities could result in an incidental, but not intentional, strike of a marine mammal in the Study Area, which has the potential to result in serious injury or mortality. Vessel strikes are not specific to any specific military readiness activity but rather, a limited, sporadic, and incidental result of the Navy’s vessel movement during military readiness activities within the Study Area. Vessel strikes from commercial, recreational, and military vessels are known to seriously injure

and occasionally kill cetaceans (Abramson *et al.*, 2011; Berman-Kowalewski *et al.*, 2010; Calambokidis, 2012; Crum *et al.*, 2019; Douglas *et al.*, 2008; Laggner 2009; Van der Hoop *et al.*, 2012; Van der Hoop *et al.*, 2013), although reviews of the literature on vessel strikes mainly involve collisions between commercial vessels and whales (Jensen and Silber, 2003; Laist *et al.*, 2001). Vessel speed, size, and mass are all important factors in determining both the potential likelihood and impacts of a vessel strike to marine mammals (Blondin *et al.* 2025; Conn and Silber, 2013; Garrison *et al.* 2025; Gende *et al.*, 2011; Redfern *et al.*, 2019; Silber *et al.*, 2010; Szesciorka *et al.*, 2019; Vanderlaan and Taggart, 2007; Wiley *et al.*, 2016). For large vessels, speed and angle of approach can influence the severity of a strike.

Here, the limited number of Navy vessels operating within the Study Area, the design and operation of the T-AGOS vessels, the monitoring and mitigation utilized, and the fact that no strikes of marine mammals from vessels conducting SURTASS training and testing have occurred in the past support the conclusion that Navy vessel strikes are not expected to result from the activities covered by this proposed rule. The number of vessels used in the Navy’s SURTASS testing and training activities is minimal (especially as compared to the number of commercial ships transiting in the same areas on an annual basis), rendering the base probability of a vessel strike very low. The design of the T-AGOS vessels further reduces the risk of a vessel strike, with the catamaran-type split hull shape and enclosed propeller system, a propeller system design that has been suggested as effectively reducing sharp force injuries to marine species, particularly when combined with reduced speeds (*i.e.*, 5.6–7.4 km/hr) (Schoeman *et al.*, 2020). Both detection and avoidance of marine mammals are more effective at slower speeds and the T-AGOS vessel’s slow operational speed (averaging 7.4 km/hr), as well as the relatively slow vessel cruising speed when SURTASS LFA sonar is not in use (a maximum of approximately 22.2 km/hr), are generally below the speed at which, records suggest, that marine mammal injury or death is more common (Laist *et al.*, 2001).

Surface ships operated by the Navy have multiple personnel assigned to stand watch at all times when moving through the water (underway). A primary duty of personnel standing watch on surface ships is to detect and report all objects and disturbances

sighted in the water that may indicate a threat to the vessel and its crew, such as debris, a periscope, surfaced submarine, or surface disturbance. Per vessel safety requirements, personnel standing watch also report any marine mammals sighted in the path of the vessel as a standard collision avoidance procedure. All vessels proceed at a safe speed so they can take proper and effective action to avoid a collision with any sighted object or disturbance and can stop within a distance appropriate to the prevailing circumstances and conditions. The Navy utilizes Lookouts to avoid collisions, and Lookouts are trained to spot marine mammals so that vessels may change course or take other appropriate action to avoid collisions (for more information, see section 2.1.2 of the application).

Further, the use of HF/M3 sonar to monitor for marine mammals in tandem with Lookouts would support detection of cetaceans well in advance of any potential vessel strike during SURTASS LFA sonar training and testing activities. Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation Measures section, Proposed Monitoring section, and Proposed Reporting section).

Due to the reasons described above (*i.e.*, low probability of Navy vessel and marine mammal interactions, vessel design, relatively slow vessel speeds, high probability of detection and avoidance due to applied monitoring and mitigation measures), and the fact that there have been no known Navy vessel strikes in the 22-year history of SURTASS LFA sonar activities, the Navy has determined, and NMFS preliminarily concurs, that take of marine mammals by vessel strike is highly unlikely. Therefore, the Navy has not requested any take of marine mammals by vessel strike, and NMFS is not proposing to authorize take by serious injury or mortality by vessel strike.

Standard Operating Procedures

For training and testing to be effective, Navy personnel must be able to safely use their sensors, platforms, weapons, and other devices to their optimum capabilities and as intended for use in missions and combat operations. The Navy has developed standard operating procedures through decades of experience to provide for safety and mission success. Because they are essential to safety and mission success, standard operating procedures

are part of the proposed activities and are considered in the environmental analysis for applicable resources (see chapter 3 (Affected Environment and Environmental Consequences) of the 2025 SURTASS Draft SEIS/OEIS). While standard operating procedures are designed for the safety of personnel and equipment and to ensure the success of training and testing activities, their implementation often yields additional benefits for environmental (*e.g.*, marine mammals), socioeconomic, public health and safety, and cultural resources.

Because standard operating procedures are essential to safety and mission success, the Navy considers them to be part of the proposed activities and has included them in the environmental analysis. Standard operating procedures that are recognized as providing a potential secondary benefit on marine mammals that apply to SURTASS LFA sonar training and testing activities include those related to the following, described in more detail in section 2.1.2 of the application:

- Vessel safety; and
- Towed in-water device safety.

Standard operating procedures (which are implemented regardless of their secondary benefits) are different from mitigation measures (which are designed entirely for the purpose of avoiding or reducing impacts). Information on mitigation measures is provided in the *Proposed Mitigation Measures* section.

Description of Marine Mammals and Their Habitat in the Area of Specified Activities

Marine mammal species and their associated stocks that have the potential to occur in the Study Area are presented in table 1 along with each stock's Endangered Species Act (ESA) and MMPA statuses, abundance estimate and associated coefficient of variation (CV) value, minimum abundance estimate, potential biological removal (PBR), annual M/SI, as applicable, and potential occurrence in the Study Area. The Navy requests authorization to take individuals of 44 species by Level B harassment and, for a subset of those species, Level A harassment (9 species), incidental to military readiness activities from the use of SURTASS LFA sonar in the Study Area. Of note, based on improvements to the Navy's density research since the 2019 SURTASS LFA Final Rule (84 FR 40132, August 13, 2019), seven more species were modeled for this proposed rulemaking

than the 2019 rulemaking. Of those seven, the Navy's application includes estimated take of four species from the proposed activity that were not included in the 2019 final rule: (1) bearded seal; (2) ringed seal; (3) harbor seal; and (4) Steller sea lion. Multiple stocks of some species are affected, and independent assessments are conducted to make the necessary findings and determinations for each of these.

There are 34 stocks under NMFS' jurisdiction with confirmed or possible occurrence in the Study Area, of which 11 are listed as endangered or threatened under the ESA (16 U.S.C. 1531 *et seq.*). Currently, the false killer whale (Main Hawaiian Islands Insular DPS) and Hawaiian monk seal have critical habitat designated under the ESA in the Study Area (see *Critical Habitat* section below).

The remaining species in the Central and Western Pacific (CWP) and Eastern Indian Oceans (EIO) have no stock designation (NSD) under the MMPA.

Sections 3 and 4 and appendix A (Marine Mammal Species Supplemental Information) of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs) (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website at: <https://www.fisheries.noaa.gov/find-species>. Additional information on the general biology and ecology of marine mammals is included in the 2025 SURTASS Draft SEIS/OEIS. Table 1 incorporates the best available science, including data from the 2023 Pacific and Alaska Marine Mammal Stock Assessment Reports (Carretta *et al.*, 2024; Young *et al.*, 2024) (see <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>), and 2024 draft SARs, as well as monitoring data from the Navy's marine mammal research efforts.

BILLING CODE 3510-22-P

Table 1 -- Marine Mammal Occurrence within the Pacific SURTASS LFA Sonar Study Area¹

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla – Cetacea – Mysticeti (baleen whales)						
<i>Family Balaenidae</i>						
North Pacific right whale	<i>Eubalaena japonica</i>	NSD	E, N/A, N/A		UNK	UNK
<i>Family Balaenopteridae (rorquals)</i>						
Blue whale	<i>Balaenoptera musculus</i>	NSD	E, N/A, N/A		UNK	UNK
Blue whale	<i>Balaenoptera musculus</i>	Central North Pacific	E, D, Y	133 (1.09, 63, 2010)	0.1	0
Bryde's whale	<i>Balaenoptera edeni</i>	NSD	-, N/A, N/A		UNK	UNK
Bryde's whale	<i>Balaenoptera edeni</i>	Hawaii	-, -, N	791 (0.29, 623, 2020)	6.2	0
Fin whale	<i>Balaenoptera physalus</i>	NSD	E, N/A, N/A		UNK	UNK
Fin whale	<i>Balaenoptera physalus</i>	Hawaii	E, D, Y	203 (0.99, 101, 2017)	0.2	0
Humpback whale	<i>Megaptera novaeangliae</i>	NSD	-, N/A, N/A		UNK	UNK
Humpback whale	<i>Megaptera novaeangliae</i>	Hawaii	-, -, N	11,278 (0.56, 7,265, 2020)	127	27.09
Humpback whale	<i>Megaptera novaeangliae</i>	Western North Pacific	E, D, Y	1,084 (0.088, 1,007, 2006)	3.4	5.82
Antarctic minke whale	<i>Balaenoptera bonaerensis</i>	NSD	-, N/A, N/A		UNK	UNK
Minke whale	<i>Balaenoptera acutorostrata</i>	NSD	-, N/A, N/A		UNK	UNK
Minke whale	<i>Balaenoptera acutorostrata</i>	Hawaii	-, -, N	438 (1.05, 212, 2017)	2.1	0
Omura's whale	<i>Balaenoptera omurai</i>	NSD	-, N/A, N/A		UNK	UNK

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Sei whale	<i>Balaenoptera borealis</i>	NSD	E, N/A, N/A		UNK	UNK
Sei whale	<i>Balaenoptera borealis</i>	Hawaii	E, D, Y	391 (0.9, 204, 2010)	0.4	0.2
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Physeteridae</i>						
Sperm whale	<i>Physeter macrocephalus</i>	NSD	E, N/A, N/A		UNK	UNK
Sperm whale	<i>Physeter macrocephalus</i>	North Pacific	E, D, Y	UND (UND, UND, 2015)	UND	3.5
Sperm whale	<i>Physeter macrocephalus</i>	Hawaii	E, D, Y	5,707 (0.23, 4,486, 2017)	18	0
<i>Family Kogiidae</i>						
Dwarf sperm whale	<i>Kogia sima</i>	NSD	-, N/A, N/A		UNK	UNK
Dwarf sperm whale	<i>Kogia sima</i>	Hawaii	-, -, N	UNK (UNK, UNK, 2017)	UND	0
Pygmy sperm whale	<i>Kogia breviceps</i>	NSD	-, N/A, N/A		UNK	UNK
Pygmy sperm whale	<i>Kogia breviceps</i>	Hawaii	-, -, N	42,083 (0.64, 25,695, 2017)	257	0
<i>Family Ziphiidae (beaked whales)</i>						
Baird's beaked whale	<i>Berardius bairdii</i>	NSD	-, N/A, N/A		UNK	UNK
Blainville's beaked whale	<i>Mesoplodon densirostris</i>	NSD	-, N/A, N/A		UNK	UNK
Blainville's beaked whale	<i>Mesoplodon densirostris</i>	Hawaii	-, -, N	1,132 (0.99, 564, 2017)	5.6	0
Deraniyagala's beaked whale	<i>Mesoplodon hotaula</i>	NSD	-, N/A, N/A		UNK	UNK
Ginkgo-toothed beaked whale	<i>Mesoplodon ginkgodens</i>	NSD	-, N/A, N/A		UNK	UNK

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Goose-beaked whale	<i>Ziphius cavirostris</i>	NSD	-, N/A, N/A		UNK	UNK
Goose-beaked whale	<i>Ziphius cavirostris</i>	Hawaii	-, -, N	4,431 (0.41, 3,180, 2017)	32	0
Hubbs' beaked whale	<i>Mesoplodon carlshubbi</i>	NSD	-, N/A, N/A		UNK	UNK
Longman's beaked whale	<i>Indopacetus pacificus</i>	NSD	-, N/A, N/A		UNK	UNK
Longman's beaked whale	<i>Indopacetus pacificus</i>	Hawaii	-, -, N	2,550 (0.67, 1,527, 2017)	15	0
Stejneger's beaked whale	<i>Mesoplodon stejnegeri</i>	NSD	-, N/A, N/A		UNK	UNK
<i>Family Delphinidae</i>						
False killer whale	<i>Pseudorca crassidens</i>	NSD	-, N/A, N/A		UNK	UNK
False killer whale	<i>Pseudorca crassidens</i>	Main Hawaiian Islands Insular	E, D, Y	138 (0.08, 129, 2015)	0.26	0.3
False killer whale	<i>Pseudorca crassidens</i>	Hawaii Pelagic	-, -, Y	5,528 (0.35, 4,152, 2017)	33	47
Killer whale	<i>Orcinus orca</i>	NSD	-, N/A, N/A		UNK	UNK
Killer whale	<i>Orcinus orca</i>	Hawaii	-, -, N	161 (1.06, 78, 2017)	0.8	0
Melon-headed whale	<i>Peponocephala electra</i>	NSD	-, N/A, N/A		UNK	UNK
Melon-headed whale	<i>Peponocephala electra</i>	Hawaiian Islands	-, -, N	40,647 (0.74, 23,301 2017)	233	0
Pygmy killer whale	<i>Feresa attenuata</i>	NSD	-, N/A, N/A		UNK	UNK
Pygmy killer whale	<i>Feresa attenuata</i>	Hawaii	-, -, N	10,328 (0.75, 5,885, 2017)	59	0
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>	NSD	-, N/A, N/A		UNK	UNK
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>	Hawaii	-, -, N	19,242 (0.23, 15,894, 2020)	159	0.2

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Bottlenose dolphin	<i>Tursiops truncatus</i>	NSD	-, N/A, N/A		UNK	UNK
Bottlenose dolphin	<i>Tursiops truncatus</i>	Hawaii Pelagic	-, -, N	24,669 (0.57, 15,783, 2020)	158	0
Common dolphin	<i>Delphinus delphis</i>	NSD	-, N/A, N/A		UNK	UNK
Fraser's dolphin	<i>Lagenodelphis hosei</i>	NSD	-, N/A, N/A		UNK	UNK
Fraser's dolphin	<i>Lagenodelphis hosei</i>	Hawaii	-, -, N	40,960 (0.7, 24,068, 2017)	241	0
Northern right whale dolphin	<i>Lissodelphis borealis</i>	NSD	-, N/A, N/A		UNK	UNK
Pacific white-sided dolphin	<i>Aethalodelphis obliquidens</i>	North Pacific	-, -, N	26,880 (N/A, N/A, 1990)	UND	0
Pantropical spotted dolphin	<i>Stenella attenuata</i>	NSD	-, N/A, N/A		UNK	UNK
Pantropical spotted dolphin	<i>Stenella attenuata</i>	Hawaii Pelagic	-, -, N	67,313 (0.27, 53,839, 2020)	538	0
Risso's dolphin	<i>Grampus griseus</i>	NSD	-, N/A, N/A		UNK	UNK
Risso's dolphin	<i>Grampus griseus</i>	Hawaii	-, -, N	6,979 (0.29, 5,283, 2020)	53	0
Rough-toothed dolphin	<i>Steno bredanensis</i>	NSD	-, N/A, N/A		UNK	UNK
Rough-toothed dolphin	<i>Steno bredanensis</i>	Hawaii	-, -, N	83,915 (0.49, 56,782, 2017)	511	3.2
Spinner dolphin	<i>Stenella longirostris</i>	NSD	-, N/A, N/A		UNK	UNK
Spinner dolphin	<i>Stenella longirostris</i>	Hawaii Pelagic	-, -, N	UNK (UNK, UNK, 2010)	UND	0
Striped dolphin	<i>Stenella coeruleoalba</i>	NSD	-, N/A, N/A		UNK	UNK
Striped dolphin	<i>Stenella coeruleoalba</i>	Hawaii Pelagic	-, -, N	64,343 (0.28, 51,055, 2020)	511	0
<i>Family Phocoenidae (porpoises)</i>						
Dall's porpoise	<i>Phocoenoides dalli</i>	NSD	-, N/A, N/A		UNK	UNK

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Carnivora – Pinnipedia						
<i>Family Otariidae (eared seals and sea lions)</i>						
Northern fur seal	<i>Callorhinus ursinus</i>	NSD	-, N/A, N/A		UNK	UNK
Steller sea lion	<i>Eumetopias jubatus</i>	Western	E, D, Y	49,837 (N/A, 49,837, 2022)	299	267
<i>Family Phocidae (earless seals)</i>						
Bearded seal	<i>Erignathus barbatus</i>	Beringia	T, D, Y	UND (UND, UND, 2013)	UND	6,709
Harbor seal	<i>Phoca vitulina</i>	California	-, -, N	30,968 (N/A, 27,348, 2012)	1,641	43
Ribbon seal	<i>Histiophoca fasciata</i>	NSD	-, N/A, N/A		UNK	UNK
Hawaiian monk seal	<i>Neomonachus schauinslandi</i>	Hawaii	E, D, Y	1,605 (0.05, 1,508, 2022)	5.3	≥4.8
Ringed seal	<i>Pusa hispida</i>	NSD	- ⁵ , N/A, N/A		UNK	UNK
Spotted seal	<i>Phoca largha</i>	Bering	-, -, N	461,625 (N/A, 423,237, 2013)	25,394	5,254

Note: NSD = No Stock Designation, N/A = Not Applicable, UND = Undetermined, UNK = Unknown. A species or stock listed as 'NSD' is not a designated stock under the MMPA and, therefore, does not have a SAR or any SAR-specific information.

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock. MMPA status information is N/A to a species for which no stock is designated.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ Only designated DPSs are ESA-listed.

BILLING CODE 3510-22-C

Species Not Included in the Analysis

The species carried forward for analysis (and described in table 1) are those likely to be found in the Study Area based on the most recent data available, and do not include species that may have once inhabited or transited the area but have not been sighted in recent years (e.g., species which were extirpated from factors such as 19th and 20th century commercial exploitation). The following species were not included in the analysis.

The North Pacific right whale (NPRW) is one of the rarest marine mammals worldwide. Their historical range spanned the entire North Pacific Ocean from approximately 35 degrees north, with feeding grounds in the Bering Sea, Gulf of Alaska, Okhotsk Sea, and northwestern North Pacific, the latter of which overlaps a portion of the Study Area. Two transboundary stocks of NPRW are currently recognized: a Western North Pacific stock feeding primarily in the Sea of Okhotsk and an Eastern North Pacific (ENP) stock feeding primarily in the southeastern Bering Sea (Rosenbaum *et al.*, 2000; Brownell *et al.*, 2001; LeDuc *et al.*, 2012; Pastene *et al.*, 2022). The summer range of the ENP stock includes the Gulf of Alaska and Bering Sea but the winter calving grounds for both stocks are unknown, as they likely migrate out of the Bering Sea during winter months (Wright, 2017). Recent sightings of NPRW have occurred in the eastern Bering Sea, southeastern Bering Sea, northern Bering Sea, and British Columbia (Little, 2021). Acoustic detections of NPRW have also occurred in the southeastern Bering Sea, Gulf of Alaska, and the eastern Aleutian Islands. Young *et al.* (2024) indicate the $N_{\min}$ of the ENP stock is 26 individuals based on the 20th percentile of the photo-identification estimate of 31 whales (CV = 0.226) (Wade *et al.*, 2011). Despite the uncertainty in the current extent of the range of the ENP stock, and because the abundance of the ENP stock is so low and recent sightings data does not overlap the Study Area, it is considered unlikely the ENP stock would be impacted by the proposed activities.

Bowhead whales (*Balaena mysticetus*) are limited to the Arctic and sub-Arctic regions in the Northern Hemisphere, with shorter migrations than most baleen whales; the Okhotsk Sea and Bering Chukchi-Beaufort Seas stocks are confined to the Okhotsk and Bering Seas, respectively (Citta *et al.*, 2023; Citta *et al.*, 2015; Ivashchenko and Clapham, 2010). There has been one

record of a calf in lower latitudes in Canadian waters; however, it is the only sighting of a bowhead within the eastern North Pacific (Towers *et al.*, 2022). There are no known or documented sightings of this species within the Study Area.

Beluga whales (*Delphinapterus leucas*) of the Beaufort Sea, Eastern Chukchi Sea, and Cook Inlet stocks of beluga whales do not overlap the Study Area. The Sakhalin-Amur, Ulbansky, Tugursky, Udskeya, and Shelikhov populations are all found in the northern part of the Okhotsk Sea, whereas the Anadyr population and the Bristol Bay and Eastern Bering Sea stocks are all found within the northern parts of the Bering Sea (Hobbs *et al.*, 2019). While both of these seas border the Study Area, both seas occur outside the Study Area, and there have been no documented sightings of belugas within the Study Area.

The distribution of shallow-water porpoise species, such as the Indo-Pacific finless porpoise (*Neophocaena phocaenoides*) and narrow-ridged finless porpoise (*N. asiaeorientalis*) are in shallow nearshore waters, where SURTASS LFA sonar is highly unlikely to be detectable.

Freshwater dolphin species, such as the Ganges River dolphin (*Platanista gangetica gangetica*), the Indus River dolphin (*P. gangetica minor*), and the baiji/Chinese river dolphin (*Lipotes vexillifer*), are restricted to riverine waters of the Ganges, Indus, and Yangtze Rivers, respectively. These river dolphins occur only in the main channels of these rivers, well inshore of where SURTASS LFA sonar would be detectable.

Inshore and coastal delphinid species, such as the Irrawaddy dolphin (*Orcaella brevirostris*), Australian snubfin dolphin (*O. heinsohni*), Indian Ocean humpback dolphin (*Sousa plumbea*), Indo-Pacific humpbacked dolphin (*S. chinensis*), Australian humpback dolphin (*S. sahulensis*), and Taiwanese humpbacked dolphin (*S. chinensis taiwanensis*), all occur in shallow, coastal waters near shore, where SURTASS LFA sonar is unlikely to be detectable.

Two species of marine mammal, sea otters (*Enhydra lutris*) and dugongs (*Dugong dugon*), occur in the Study Area but are managed by the U.S. Fish and Wildlife Service (U.S. FWS) and thus are not considered further in this analysis.

NMFS standardly considers additional information about the marine mammals in the area of the specified activities that informs our analysis, such as identifying known areas of important

habitat or behaviors, or where unusual mortality events have been designated. For SURTASS LFA sonar training and testing activities, the Navy coordinated with NMFS to develop a comprehensive method for consideration of these types of important areas globally and specifically within the Study Area (for the purposes of identifying OBIAs, discussed further in the Offshore Biologically Important Areas for SURTASS LFA Sonar section). This method and these areas are summarized in the Proposed Mitigation Measures section and described in detail in appendix F of the 2025 SURTASS Draft SEIS/OEIS. Further, we note here that the OBIA identification criteria include consideration of the hearing sensitivity of the affected species, given the low frequency (100–500 Hz) of the LFA sonar signal, which most odontocetes and pinnipeds hear with significantly reduced sensitivity (9–65 dB lower, or more). Additional details regarding marine mammal hearing sensitivity are included in the *Marine Mammal Hearing Groups* section.

Below, we describe the critical habitat for the two species in the Study Area for which it has been designated under the ESA, as well two National Marine Sanctuaries that include marine mammal resources, although both critical habitat and Sanctuaries are considered through the referenced OBIA process. Further, we briefly describe biologically important areas (BIAs) for cetaceans identified and scored in Kratofil *et al.* (2023), which are not explicitly addressed through the OBIA process, but which NMFS addresses in the context of mitigation in the *Geographic Mitigation* section.

Critical Habitat

Currently, the false killer whale (Main Hawaiian Islands Insular DPS) and Hawaiian monk seal have ESA-designated critical habitat in the Study Area.

False Killer Whale (Main Hawaiian Island Insular DPS)

Critical habitat for the ESA-listed Main Hawaiian Islands insular false killer whale DPS was finalized in July 2018 (83 FR 35062, July 24, 2018) designating waters from the 45 m depth contour to the 3,200 m depth contour around the main Hawaiian Islands from Niihau east to Hawaii. This designation does not include most bays, harbors, or coastal in-water structures. NMFS excluded 14 areas. The total area designated was approximately 45,504 square kilometers (km²) (13,267 nmi²) of marine habitat. Critical habitat for the main Hawaiian Islands insular DPS of

false killer whale overlaps the Study Area.

Main Hawaiian Islands insular false killer whales are island-associated whales that rely entirely on the productive submerged habitat of the main Hawaiian Islands to support all of their life-history stages. Island-associated marine habitat for Main Hawaiian Islands insular false killer whale is the only essential feature of the critical habitat. The following characteristics of this habitat support insular false killer whales' ability to travel, forage, communicate, and move freely around and among the waters surrounding the main Hawaiian Islands: (1) adequate space for movement and use within shelf and slope habitat; (2) prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; (3) waters free of pollutants of a type and amount harmful to Main Hawaiian Islands insular false killer whales; and (4) sound levels that would not significantly impair false killer whales' use or occupancy.

Hawaiian Monk Seal

Critical habitat for Hawaiian monk seals was designated in 1986 (51 FR 16047, April 30, 1986) and later revised in 1988 (53 FR 18988, May 26, 1988) and in 2015 (80 FR 50925, August 21, 2015). In the Northwestern Hawaiian Islands Hawaiian monk seal critical habitat includes all beach areas, sand spits and islets, including all beach crest vegetation to its deepest extent inland as well as the seafloor and marine habitat 10 m in height above the seafloor from the shoreline out to the 200 m depth contour around Kure Atoll (Hōlanikū), Midway Atoll (Kuaihelani), Pearl and Hermes Reef (Manawai), Lisianski Island (Kapou), Laysan Island (Kamole), Maro Reef (Kamokuokamohoali'i), Gardner Pinnacles (Ōnūnui), French Frigate Shoals (Lalo), Necker Island (Mokumanamana) and Nihoa Island. In the main Hawaiian Islands, Hawaiian

monk seal critical habitat includes the seafloor and marine habitat to 10 m above the seafloor from the 200 m depth contour through the shoreline and extending into terrestrial habitat 5 m inland from the shoreline between identified boundary points around Kaula Island (includes marine habitat only), Ni'ihau (includes marine habitat from 10 to 200 m in depth), Kaua'i, Ōahu, Maui Nui (including Kaho'olawe, Lāna'i, Maui, and Moloka'i), and Hawaii Island. Critical habitat for the Hawaiian monk seal overlaps the Study Area.

The essential features of Hawaiian monk seal critical habitat are: (1) terrestrial areas and adjacent shallow, sheltered aquatic areas with characteristics preferred by monk seals for pupping and nursing; (2) marine areas from 0 to 200 m in depth that support adequate prey quality and quantity for juvenile and adult monk seal foraging; and (3) significant areas used by monk seals for hauling out, resting or molting.

Biologically Important Areas

Ferguson *et al.* (2015) identified BIAs within U.S. waters, which represent areas and times in which cetaceans are known to concentrate for reproduction, feeding, and migration, or areas where small and resident populations are known to occur. Harrison *et al.* (2023) identified a new scoring system, described below, and the BIAs in Hawaiian waters were updated (Kratofil *et al.*, 2023). Unlike ESA critical habitat, these areas are not formally designated pursuant to any statute or law but are a compilation of the best available science intended to inform impact and mitigation analyses. An interactive map of the BIAs is available at: <https://ocean.noise.noaa.gov/biologically-important-areas>. A summary of all of the BIAs in the Study Area is included below.

Kratofil *et al.* (2023) delineates and scores BIAs for cetaceans in the Hawaii region following standardized protocols. Experts identified an overall Importance Score for each BIA that considers: (1)

“Intensity,” meaning the intensity and characteristics underlying an area's identification as a BIA; and (2) “Data Support,” meaning the quantity, quality, and type of information, and associated uncertainties, upon which the BIA delineation and scoring depend. Importance Scores range from 1 to 3, with a higher score representing an area of higher intensity and data support. Each BIA is also scored for boundary uncertainty and spatiotemporal variability (dynamic, ephemeral, or static). Additionally, hierarchical BIAs are identified for some species and stocks where a higher intensity score is appropriate for a smaller core area(s) (child BIA) within a larger BIA unit (parent BIA).

The Study Area overlaps BIAs in Hawaii for small and resident populations of the following species: spinner dolphin, short-finned pilot whale, rough-toothed dolphin, pygmy killer whale, pantropical spotted dolphin, melon-headed whale, false killer whale, dwarf sperm whale, goose-beaked whale, common bottlenose dolphin, and Blainville's beaked whale, and the updated BIAs for humpback whale reproduction (Kratofil *et al.*, 2023). Table 2 describes each BIA that overlaps the Study Area and the scores for the above criteria. We note that the BIAs for small and resident populations of spinner dolphin, melon-headed whale, and dwarf sperm whale are all fully contained within OBIAs. The BIAs for small and resident populations of short-finned pilot whale, rough-toothed dolphin, pygmy killer whale, goose-beaked whale, and common bottlenose dolphin, and the reproductive BIA for humpback whale, are mostly contained within the OBIAs. The BIAs for small and resident populations of pantropical spotted dolphin, false killer whale, and Blainville's beaked whale are partially contained within the OBIAs described in the *Geographic Mitigation* section and proposed for implementation in this rule.

BILLING CODE 3510-22-P

Table 2 -- BIAs Overlapping the Pacific SURTASS LFA Sonar Study Area

Species	BIA Type	Parent/Child/Non-hierarchical	BIA Name	Effective Months	BIA Area (km ²)	Importance Score	Intensity Score	Data Support Score	Boundary Certainty	Spatiotemporal Variability	Transboundary Across
Hawaii Study Area (Kratofil <i>et al.</i> , 2023)											
Humpback whale	Reproductive	Parent	Main Hawaiian Islands - Parent	December through May	23,041	2	2	2	2	Static	None
Humpback whale	Reproductive	Child	Main Hawaiian Islands - Child	December through May	6,676	3	3	3	3	Static	None
False killer whale	Small and Resident Population	Parent	Main Hawaiian Islands Insular Stock - Parent	Year-round	94,217	1	1	3	3	Static	None
False killer whale	Small and Resident Population	Child	Main Hawaiian Islands Insular Stock - Child	Year-round	7,775	3	3	3	3	Static	None
False killer whale	Small and Resident Population	Non-hierarchical	Northwestern Hawaiian Islands Insular Stock	Year-round	138,001	1	1	2	2	Static	None
Dwarf sperm whale	Small and Resident Population	Parent	Hawaii Island - Parent	Year-round	1,341	3	3	2	2	Static	None
Dwarf sperm whale	Small and Resident Population	Child	Hawaii Island - Child	Year-round	457	3	3	2	2	Static	None
Pygmy killer whale	Small and Resident Population	Non-hierarchical	O'ahu-Maui Nui	Year-round	7,416	3	3	2	2	Static	None
Pygmy killer whale	Small and Resident Population	Non-hierarchical	Hawaii Island	Year-round	5,201	2	2	2	2	Static	None
Short-finned pilot whale	Small and Resident Population	Parent	Main Hawaiian Islands - Parent	Year-round	51,280	1	1	3	3	Static	None
Short-finned	Small and Resident Population	Child	Main Hawaiian Islands - Child (Western)	Year-round	4,040	3	3	3	3	Static	None

Species	BIA Type	Parent/Child/Non-hierarchical	BIA Name	Effective Months	BIA Area (km ²)	Importance Score	Intensity Score	Data Support Score	Boundary Certainty	Spatiotemporal Variability	Transboundary Across
pilot whale			Community Core Range)								
Short-finned pilot whale	Small and Resident Population	Child	Main Hawaiian Islands - Child (Central Community Core Range)	Year-round	2,427	3	3	3	3	Static	None
Short-finned pilot whale	Small and Resident Population	Child	Main Hawaiian Islands - Child (Eastern Community Core Range)	Year-round	2,461	3	3	3	3	Static	None
Common bottlenose dolphin	Small and Resident Population	Parent	Kaua'i/Ni'ihau-O'ahu-Maui Nui	Year-round	36,634	1	1	3	2	Static	None
Common bottlenose dolphin	Small and Resident Population	Child	Kaua'i/Ni'ihau-O'ahu-Maui Nui-Kaua'i/Ni'ihau	Year-round	2,772	3	3	3	3	Static	None
Common bottlenose dolphin	Small and Resident Population	Child	Kaua'i/Ni'ihau-O'ahu-Maui Nui - O'ahu	Year-round	8,486	3	3	2	2	Static	None
Common bottlenose dolphin	Small and Resident Population	Child	Kaua'i/Ni'ihau-O'ahu-Maui Nui - Maui Nui	Year-round	10,622	2	2	2	2	Static	None
Common bottlenose dolphin	Small and Resident Population	Non-hierarchical	Hawaii Island	Year-round	8,299	2	2	3	3	Static	None
Pantropical spotted dolphin	Small and Resident Population	Parent	O'ahu-Maui Nui-Hawaii Island - Parent	Year-round	57,711	1	1	2	2	Static	None
Pantropical spotted dolphin	Small and Resident Population	Child	O'ahu-Maui Nui-Hawaii Island - Child (O'ahu)	Year-round	12,952	1	1	2	2	Static	None
Pantropical spotted dolphin	Small and Resident Population	Child	O'ahu-Maui Nui-Hawaii Island - Child (Maui Nui)	Year-round	6,743	1	1	2	2	Static	None

Species	BIA Type	Parent/Child/Non-hierarchical	BIA Name	Effective Months	BIA Area (km ²)	Importance Score	Intensity Score	Data Support Score	Boundary Certainty	Spatiotemporal Variability	Transboundary Across
Pantropical spotted dolphin	Small and Resident Population	Child	O'ahu-Maui Nui-Hawaii Island - Hawaii Island-Child (Hawaii Island)	Year-round	10,768	1	1	2	2	Static	None
Rough-toothed dolphin	Small and Resident Population	Non-hierarchical	Maui Nui-Hawaii Island	Year-round	15,112	1	1	2	2	Static	None
Rough-toothed dolphin	Small and Resident Population	Parent	Kaua'i/Ni'ihau-O'ahu - Parent	Year-round	24,233	1	1	2	2	Static	None
Rough-toothed dolphin	Small and Resident Population	Child	Kaua'i/Ni'ihau-O'ahu - Child (Kaua'i/Ni'ihau)	Year-round	1,149	2	2	2	2	Static	None
Melon-headed whale	Small and Resident Population	Non-hierarchical	Kohala Residents - Hawaii Island	Year-round	3,816	2	2	3	3	Static	None
Spinner dolphin	Small and Resident Population	Non-hierarchical	Manawai (Pearl and Hermes Reef)	Year-round	2,094	1	2	1	2	Static	None
Spinner dolphin	Small and Resident Population	Non-hierarchical	Kuathelani/Hōlani kū (Midway/Kure Atolls)	Year-round	4,841	1	2	1	2	Static	None
Spinner dolphin	Small and Resident Population	Non-hierarchical	Kaua'i and Ni'ihau	Year-round	7,233	1	1	2	3	Static	None
Spinner dolphin	Small and Resident Population	Non-hierarchical	O'ahu and Maui Nui	Year-round	14,651	1	1	2	3	Static	None
Spinner dolphin	Small and Resident Population	Non-hierarchical	Hawaii Island	Year-round	9,477	1	1	3	3	Static	None
Goose-beaked whale	Small and Resident Population	Parent	Hawaii Island	Year-round	37,157	2	2	3	2	Static	None

Species	BIA Type	Parent/Child/No n-hierarchical	BIA Name	Effective Months	BIA Area (km ²)	Importan ce Score	Intensit y Score	Data Suppo rt Score	Boundar y Certaint y	Spatiotempor al Variability	Transbounda ry Across
Goose- beaked whale	Small and Resident Population	Child	Hawaii Island	Year- round	5,400	3	3	3	3	Static	None
Blainville 's beaked whale	Small and Resident Population	Parent	O'ahu-Maui Nui- Hawaii Island - Parent	Year- round	78,714	1	1	3	2	Static	None
Blainville 's beaked whale	Small and Resident Population	Child	O'ahu-Maui Nui- Hawaii Island - Child (Hawaii Island)	Year- round	4,214	3	3	3	3	Static	None

BILLING CODE 3510-22-C*National Marine Sanctuaries*

Under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (also known as the National

Marine Sanctuaries Act (NMSA)), NOAA has authority to establish as national marine sanctuaries (NMS) areas of the marine environment with special conservation, recreational, ecological, historical, cultural, archaeological,

scientific, educational, or aesthetic qualities. Sanctuary regulations prohibit destroying, causing the loss of, or injuring any sanctuary resource managed under the law or regulations for that sanctuary (15 CFR part 922).

NMS are managed on a site-specific basis, and each sanctuary has site-specific regulations. Most, but not all sanctuaries have site-specific regulatory exemptions from the prohibitions for certain military activities. Separately, section 304(d) of the NMSA requires Federal agencies to consult with the Office of National Marine Sanctuaries (ONMS) whenever their Proposed Activities are likely to destroy, cause the loss of, or injure a sanctuary resource. There are two designated NMSs within the Study Area that contain areas or resources important to marine mammals (see chapter 3 of the 2025 SURTASS Draft SEIS/OEIS):

- Hawaiian Islands Humpback Whale NMS; and
- Papahānaumokuākea NMS.

Hawaiian Islands Humpback Whale NMS is a single-species managed sanctuary, composed of 3,540 km² of the submerged lands and waters off the coast of Maui, Lānaʻi, and Molokaʻi; and smaller areas off the north shore of Kauaʻi, off Hawaii's west coast, and off the north and southeast coasts of Oahu. Hawaiian Islands Humpback Whale NMS is entirely within the Study Area and constitutes one of the world's most important Hawaii humpback whale DPS habitats (81 FR 62259, September 8, 2016) and is a primary region for humpback reproduction in the U.S. (National Marine Sanctuaries Program, 2002). Scientists estimate that more than 50 percent of the entire North Pacific humpback whale population migrates to Hawaiian waters each winter to mate, calve, and nurse their young. The North Pacific humpback whale population has

been split into two DPSs. The Hawaii humpback whale DPS migrates to Hawaiian waters each winter and is not listed under the ESA. In addition to protection under the MMPA, the Hawaii humpback whale DPS is protected in sanctuary waters by the Hawaiian Islands Humpback Whale NMS. The sanctuary was created to protect humpback whales and shallow, protected waters important for calving and nursing (Office of National Marine Sanctuaries, 2010).

Papahānaumokuākea NMS, the largest NMS, consists of approximately 1,508,849 km² of Pacific Ocean waters surrounding the Northwestern Hawaiian Islands and the submerged lands thereunder. The sanctuary comprises several interconnected ecosystems, such as coral islands surrounded by shallow reefs, low-light mesophotic reefs with extensive algal beds, open ocean waters connected to the greater North Pacific Ocean, deep-water habitats such as abyssal plains 4,999 m below sea level, and deep reef habitat characterized by seamounts, banks, and shoals. The 2,172 km stretch of coral islands, seamounts, banks, and shoals supports a diversity of coral, fish, birds, and marine mammals, many of which are unique to the Hawaiian Island chain. Many of the islands and shallow water environments are important habitats for rare species such as the endangered Hawaiian monk seal, while the waters are also important for humpback whale breeding and calving.

Unusual Mortality Events

An unusual mortality event (UME) is defined under section 410(9) of the

MMPA as a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response (16 U.S.C. 1421h(9)). There are no active UMEs in the Study Area.

Marine Mammal Hearing Groups

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.*, 1995, Wartzok and Ketten, 1999, Au and Hastings, 2008; Erbe *et al.*, 2025). To reflect this, Southall *et al.* (2007) and Southall *et al.* (2019c) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (*e.g.*, behavioral response data, anatomical modeling). NMFS (2024) generalized hearing ranges were chosen based on the approximately 65-dB threshold from the composite audiograms, previous analysis in NMFS (2018), and/or data from Southall *et al.* (2007) and Southall *et al.* (2019c). We note that the names of two hearing groups and the generalized hearing ranges of all marine mammal hearing groups have been recently updated (NMFS, 2024) as reflected below in table 3.

BILLING CODE 3510-22-P

Table 3 -- Marine Mammal Hearing Groups (NMFS, 2024)

Hearing Group	Generalized Hearing Range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36** kHz
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz
Very High-frequency (VHF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> and <i>L. australis</i>)	200 Hz to 165 kHz
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on the ~65-dB threshold from composite audiogram, previous analysis in NMFS (2018), and/or data from Southall *et al.* (2007) and Southall *et al.* (2019). Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range.

** The Navy split the LF functional hearing group into LF and VLF based on Houser *et al.*, (2024) while NMFS Updated Technical Guidance (NMFS, 2024) does not include these data. NMFS is aware of these data and data collected during a final field season by Houser *et al.* (in prep) have implications for the generalized hearing range for low-frequency cetaceans and their weighting function; however, as described in the 2024 Updated Technical Guidance, it is premature for us to propose any changes to our current Updated Technical Guidance. Mysticete hearing data is identified as a special circumstance that could merit reevaluating the acoustic criteria for low-frequency cetaceans in the 2024 Updated Technical Guidance once the data from the final field season is published. Therefore, we anticipate that once the data are published, it will likely necessitate updating this document (*i.e.*, likely after the data gathered in the summer 2024 field season and associated analysis are published).

Of particular relevance to the assessment of the impacts of the Navy's SURTASS LFA sonar training and testing are the auditory weighting functions shown in figure 2 and figure 3 (NMFS, 2024), which illustrate the significantly reduced sensitivity of most marine mammal taxa to frequencies in the 100–500 Hz range (*i.e.*, 0.1–0.5 kHz as indicated on the x-axis of these figures in NMFS (2024)), such as

SURTASS LFA sonar. Specifically, the HF cetacean weighting function curve shows approximately 17–40 dB reduced sensitivity in that frequency range (*i.e.*, the sound would be perceived as that much lower level than a sound in the most noise susceptible portion of their hearing range) (figure 2), the underwater pinniped weighting function curves (PW, OW) show 9–30 dB reductions (figure 3), and the VHF cetacean

weighting function curve shows a 47–65 dB reduction at frequencies from 200 to 500 Hz (*i.e.*, generalized hearing range for this hearing group starts at 200 Hz) and suggest even further reduced sensitivity (figure 2). Even the LF cetacean species have somewhat reduced sensitivity in the 100 to 500 Hz range (0.5–6 dB) (figure 2).

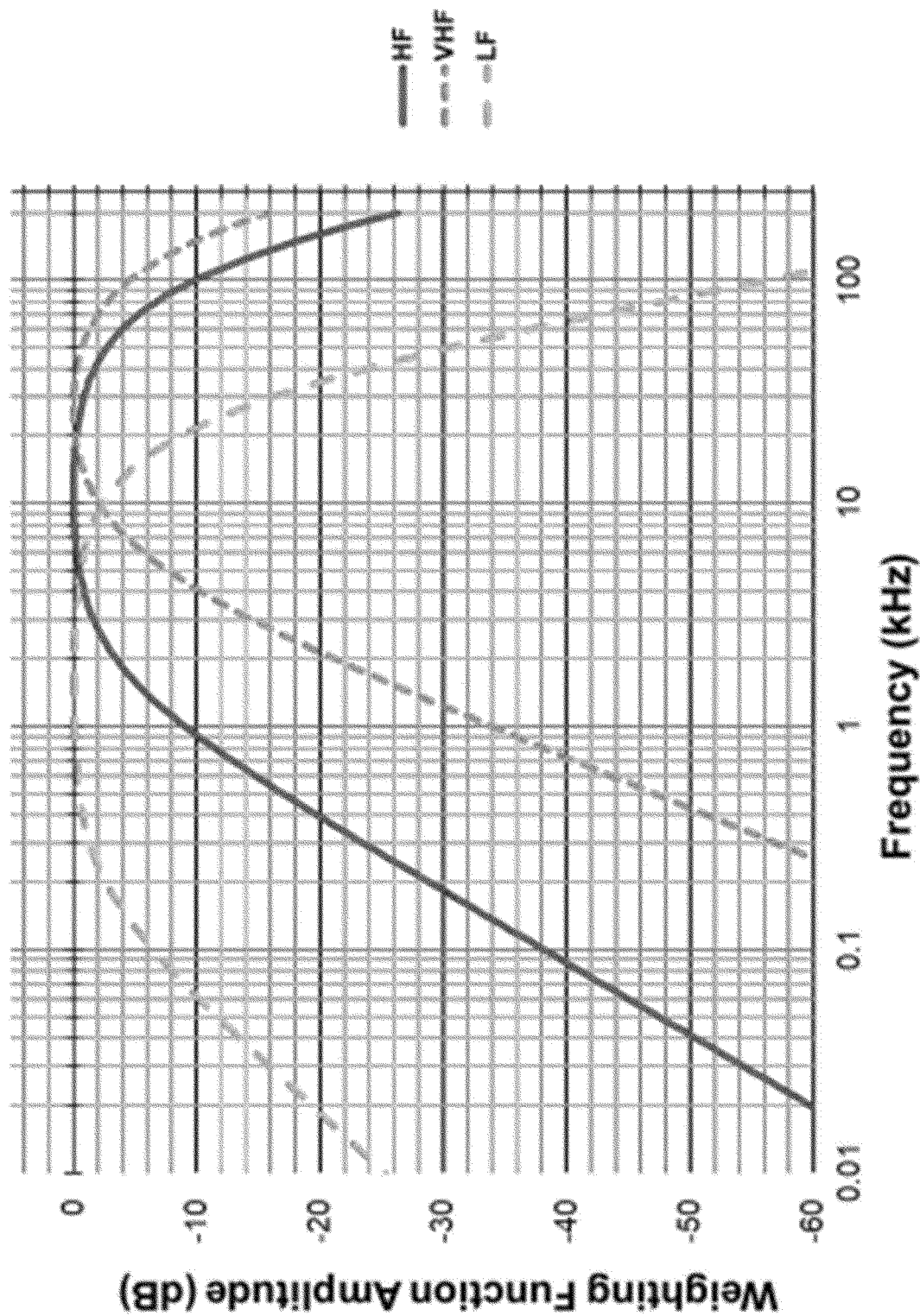


Figure 2 -- Auditory Weighting Functions for Low-Frequency (LF; dashed line), High-Frequency (HF; solid line), and Very High-Frequency (VHF; dotted line) Cetaceans

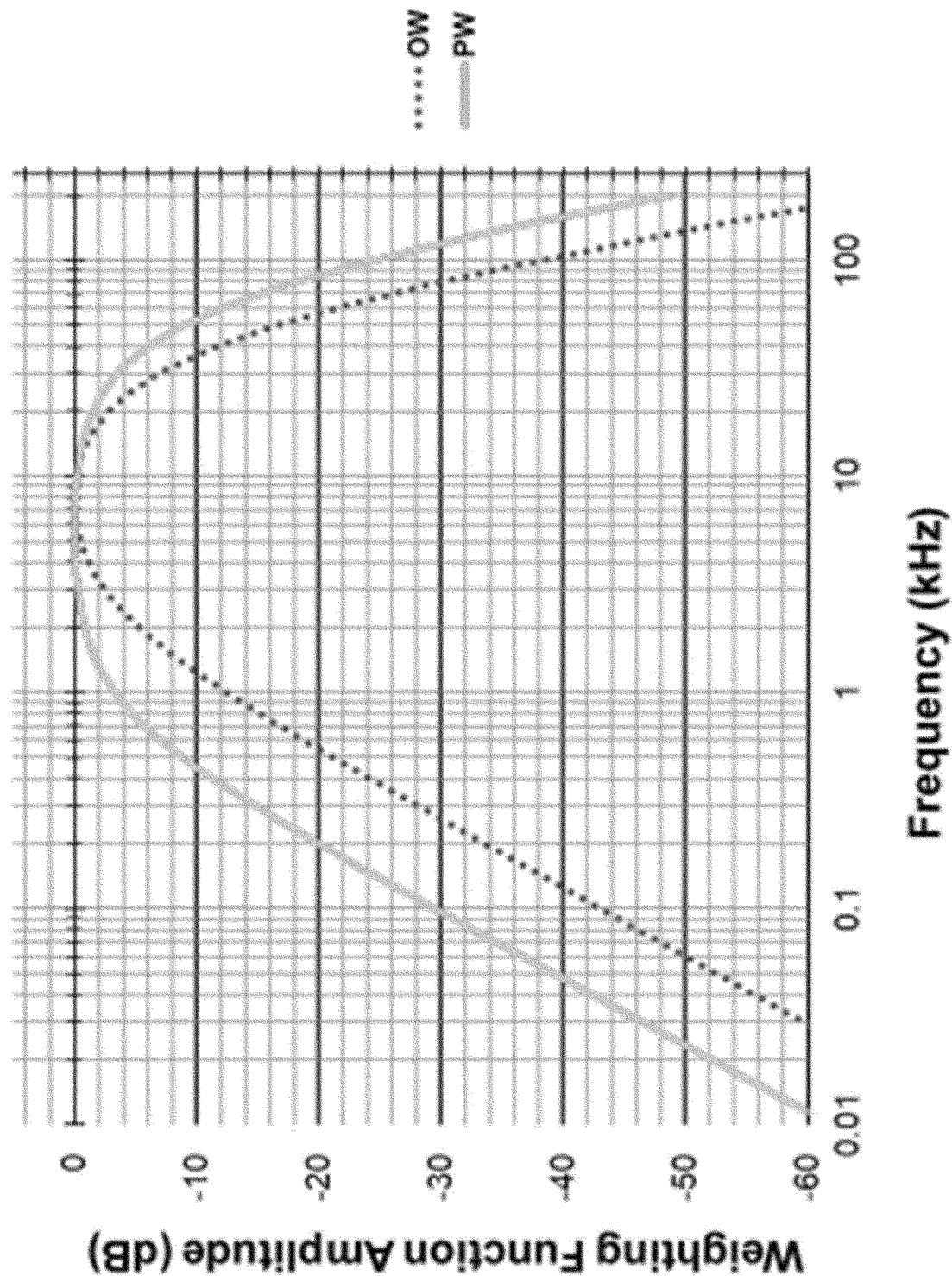


Figure 3 -- Underwater Auditory Weighting Functions for Otariid (OW; dotted line) and Phocid (PW; solid line) Pinnipeds

BILLING CODE 3510-22-C

For more detail concerning these hearing groups and associated frequency ranges and weighting functions, please see NMFS (2024) for a review of available information.

Of note, the Navy adjusted the LF cetacean hearing group using data from recent hearing measurements in minke whales (Houser *et al.*, 2024). These data support separating mysticetes (the LF

cetaceans marine mammal hearing group in table 3) into two hearing groups, which the Navy designates as “very low-frequency (VLF) cetaceans” and “low-frequency (LF) cetaceans,”

which follows the recommendations of Southall *et al.*, (2019c). Within the Navy's adjusted hearing groups, the VLF cetacean group contains the larger mysticetes (*i.e.*, blue, pygmy blue, fin, right, and bowhead whales) and the LF cetacean group contains the mysticete species not included in the VLF group (*e.g.*, minke, humpback, gray, pygmy right whales). Although there have been no direct measurements of hearing sensitivity in the larger mysticetes included in Navy's VLF hearing group, an audible frequency range of approximately 10 Hz to 30 kHz has been estimated from measured vocalization frequencies, observed responses to playback of sounds, and anatomical analyses of the auditory system. The upper frequency limit of hearing in Navy's LF hearing group has been estimated as 64 kHz, based on direct measurements of auditory evoked potentials in minke whales (Houser *et al.*, 2024).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Preliminary Analysis and Negligible Impact Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation Measures section to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts on individuals are likely to adversely affect the species or stock through effects on annual rates of recruitment or survival.

The Navy has requested authorization for the take of marine mammals that may occur incidental to training and testing activities in the Study Area. The Navy analyzed potential impacts to marine mammals from acoustic sources in the application. NMFS carefully reviewed the information provided by the Navy and concurs with their synthesis of science, along with independently reviewing applicable scientific research and literature and other information to evaluate the potential effects of the Navy's activities on marine mammals, which are presented in this section (see appendix D in the 2025 SURTASS Draft SEIS/OEIS for additional information).

Potential impacts to marine mammals from training and testing activities in the Study Area were analyzed in the 2025 SURTASS Draft SEIS/OEIS, in consultation with NMFS as a cooperating agency, and stressors other than acoustic sources were determined to be unlikely to result in marine mammal take. Therefore, the Navy has not requested authorization for take of marine mammals incidental to other components of their proposed Specified Activities, and we agree that incidental take is unlikely to occur from those components. In this proposed rule, NMFS analyzes the potential effects on marine mammals from the activity components that may result in take of marine mammals: exposure to acoustic stressors (*i.e.*, sonar).

For the purpose of MMPA ITAs, NMFS' effects assessments serve four primary purposes: (1) to determine whether the specified activities would have a negligible impact on the affected species or stocks of marine mammals (based on whether it is likely that the activities would adversely affect the species or stocks through effects on annual rates of recruitment or survival); (2) to determine whether the specified activities would have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses; (3) to prescribe the permissible methods of taking (*i.e.*, Level B harassment (behavioral harassment and temporary threshold shift (TTS)), Level A harassment (auditory injury (AUD INJ), non-auditory injury), serious injury, or mortality), including identification of the number and types of take that could occur by harassment, serious injury, or mortality, and to prescribe other means of effecting the least practicable adverse impact on the species or stocks and their habitat (*i.e.*, mitigation measures); and (4) to prescribe requirements pertaining to monitoring and reporting.

In this section, NMFS provides a description of the ways marine mammals may generally be affected by acoustic stressors in the form of mortality, physical injury, sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), behavioral disturbance, or habitat effects. The Estimated Take of Marine Mammals section discusses how the potential effects on marine mammals from non-impulsive sources relate to the MMPA definitions of Level A Harassment and Level B Harassment and quantifies those effects that do not qualify as a take under the MMPA. The Preliminary Analysis and Negligible Impact Determination section assesses whether

the proposed authorized take would have a negligible impact on the affected species and stocks.

Potential Effects of Underwater Sound on Marine Mammals

The marine soundscape is composed of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far (American National Standards Institute, 1995). The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources, which may include physical (*e.g.*, waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activities may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can possibly result in one or more of the following: temporary or permanent hearing impairment, other auditory injury, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2003; Nowacek *et al.*, 2007; Southall *et*

al., 2007; Götz *et al.*, 2009, Southall *et al.*, 2019a; Erbe *et al.*, 2025). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high-level sounds can cause auditory injury, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing can occur after exposure to noise and occur almost exclusively for noise within an animal's hearing range.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur. The masking zone may be highly variable in size.

We also describe more severe potential effects (*i.e.*, certain non-auditory physical or physiological effects). Potential effects from high-level sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, physiological damage, and injury of the auditory system (Yelverton *et al.*, 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high levels of underwater sound or as a secondary effect of extreme behavioral responses (*e.g.*, change in dive profile as a result of an avoidance response) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007; Tal *et al.*, 2015).

Hearing

Marine mammals have adapted hearing based on their biology and habitat. Amphibious marine mammals (*e.g.*, pinnipeds that spend time on land

and underwater) have modified ears that allow them to hear both in-air and in-water, while fully aquatic marine mammals (*e.g.*, cetaceans that are always underwater) have specialized ear adaptations for in-water hearing (Wartzok and Ketten, 1999). These adaptations explain the variation in hearing ability and sensitivity among marine mammals and have led to the characterization of marine mammal functional hearing groups based on those sensitivities (see *Marine Mammal Hearing Groups* section).

The hearing sensitivity of marine mammals is also directional, meaning the angle between an animal's position and the location of a sound source impacts the animal's hearing threshold, thereby impacting an animal's ability to perceive the sound emanating from that source. This directionality is likely useful for determining the general location of a sound, whether for detection of prey, predators, or members of the same species, and can be dependent upon the frequency of the sound (Accomando *et al.*, 2020; Au and Moore, 1984; Byl *et al.*, 2016; Byl *et al.*, 2019; Kastelein *et al.*, 2005; Kastelein *et al.*, 2019; Popov and Supin, 2009).

Acoustic Signaling

An acoustic signal refers to the sound waves used to communicate underwater, and marine mammals use a variety of acoustic signals for socially important functions, such as communicating, as well as biologically important functions, such as echolocating (Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Erbe *et al.*, 2025). Acoustic signals used for communication are lower frequency (*i.e.*, 20 Hz to 30 kHz) than those signals used for echolocation, which are high-frequency (approximately 10–200 kHz peak frequency) signals used by odontocetes to sense their underwater environment. Lower frequency vocalizations used for communication may have a specific, prominent fundamental frequency (Brady *et al.*, 2021) or have a wide frequency range, depending on the functional hearing group and whether the marine mammal is vocalizing in-water or in-air. Acoustic signals used for echolocation are high-frequency, high-energy sounds with patterns and peak frequencies that are often species-specific (Baumann-Pickering *et al.*, 2013).

Marine mammal species typically produce sounds at frequencies within their own hearing range, though auditory and vocal ranges do not perfectly align (*e.g.*, odontocetes may hear only a portion of the frequencies of an echolocation click). Because

determining a species vocal range is easier than determining a species' hearing range, vocal ranges are often used to infer a species' hearing range when species-specific hearing data are not available (*e.g.*, large whale species). Table 3, figure 2, and figure 3 in the *Marine Mammal Hearing Groups* section summarize the available data on marine mammal hearing groups, which is relevant given the significantly reduced sensitivity of most marine mammal taxa (9–65 dB and above for all but LF species) to the SURTASS LFA sonar source.

Hearing Loss and Auditory Injury

Marine mammals, like all mammals, lose their ability to hear over time due to age-related degeneration of auditory pathways and sensory cells of the inner ear. This natural, age-related hearing loss is distinct from acute noise-induced hearing loss (Møller, 2013). Noise-induced hearing loss can be temporary (*i.e.*, TTS) or result in a permanent (permanent threshold shift (PTS)), with higher-level sound exposures more likely to cause PTS or other AUD INJ. For marine mammals, AUD INJ is considered to be possible when sound exposures are sufficient to produce 40 dB of TTS measured approximately 4 minutes after exposure (NMFS, 2024; U.S. Department of the Navy, 2025). Numerous studies have directly examined noise-induced hearing loss in marine mammals by measuring an animal's hearing threshold before and after exposure to intense or long duration sounds. The difference between the post-exposure and pre-exposure hearing thresholds is then used to determine the amount of TTS (in dB) that was produced as a result of the sound exposure (see appendix D of the 2025 SURTASS Draft SEIS/OEIS for additional details). The Navy used these studies to generate exposure functions, which are predictions of the onset of TTS or PTS or other AUD INJ based on sound frequency, level, and type (non-impulsive or impulsive), for each marine mammal hearing group (NMFS, 2024; U.S. Department of the Navy, 2025).

TTS can last from minutes or hours to days (*i.e.*, however, there is complete recovery back to baseline/pre-exposure hearing threshold), can occur within a specific frequency range (*i.e.*, an animal might have a temporary loss of hearing sensitivity within only a limited frequency band of its auditory range), and can be of varying amounts (*e.g.*, an animal's hearing sensitivity might be reduced by only 6 dB or reduced by 30 dB). While there is no simple functional relationship between TTS and PTS or

other AUD INJ (e.g., neural degeneration), as TTS increases, the likelihood that additional exposure to increased SPL or duration will result in PTS or other injury also increases (see appendix D of the 2025 SURTASS Draft SEIS/OEIS for additional discussion). Exposure thresholds for the occurrence of AUD INJ, which include the potential for PTS, as well as situations when AUD INJ occurs without PTS, can therefore be defined based on a specific amount of TTS; that is, although an exposure has been shown to produce only TTS, we assume that any additional TTS exposure may result in some AUD INJ. The specific upper limit of TTS is based on experimental data showing amounts of TTS that have not resulted in AUD INJ. In other words, we do not need to know the exact functional relationship between TTS and AUD INJ, we need to know only the upper limit for TTS to determine when some AUD INJ is possible. In most cases of AUD INJ, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985; Finneran, 2015).

The following physiological mechanisms are thought to play a role in inducing auditory threshold shift: (1) effects to sensory hair cells in the inner ear that reduce their sensitivity; (2) modification of the chemical environment within the sensory cells; (3) displacement of certain inner ear membranes; (4) increased blood flow; and (5) post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.*, 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated threshold shift and the frequency range in which it occurs. Generally, the amount of threshold shift, and the time needed to recover from the effect, increase as amplitude and/or duration of sound exposure increases. Human non-impulsive noise exposure guidelines are based on the assumption that exposures of equal energy (the same cumulative SEL) produce equal amounts of hearing impairment regardless of how the sound energy is distributed in time (NIOSH, 1998). Previous marine mammal TTS studies have also generally supported this equal energy relationship (Southall *et al.*, 2007; Finneran, 2015; Southall *et al.*, 2019). Cumulative SEL is used to predict TTS in marine mammals and is considered a good predictor of TTS for shorter duration exposures than longer duration exposures. The amount of TTS increases with exposure SPL and duration, and is correlated with cumulative SEL, but duration of the exposure has a more

significant effect on TTS than would be predicted based on cumulative SEL alone (e.g., Finneran *et al.*, 2010b; Kastak *et al.*, 2007; Kastak *et al.*, 2005; Kastelein *et al.*, 2014a; Mooney *et al.*, 2009a; Popov *et al.*, 2014; Gransier and Kastelein, 2024). These studies highlight the inherent complexity of predicting TTS onset in marine mammals, as well as the importance of considering exposure duration when assessing potential impacts.

Generally, TTS increases with cumulative SEL in a non-linear fashion, where lower SEL exposures will elicit a steady rate of TTS increase while higher SEL exposures will either increase TTS more rapidly or plateau (Finneran, 2015; U.S. Department of the Navy, 2025). Additionally, with sound exposures of equal energy, those that had lower SPL with longer duration were found to induce TTS onset at lower levels than those of higher SPL and shorter duration. Less threshold shift will occur from intermittent sounds than from a continuous exposure with the same energy (some recovery can occur between intermittent exposures) (Kryter *et al.*, 1966; Ward, 1997; Mooney *et al.*, 2009a, 2009b; Finneran *et al.*, 2010; Kastelein *et al.*, 2014; Kastelein *et al.*, 2015). For example, one short, higher SPL sound exposure may induce the same impairment as one longer lower SPL sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, very prolonged or repeated exposure to sound loud enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause AUD INJ, at least in terrestrial mammals (Kryter, 1985; Lonsbury-Martin *et al.*, 1987).

Although TTS increases non-linearly in marine mammals, recovery from TTS typically occurs in a linear fashion with the logarithm of time (Finneran, 2015; Finneran *et al.*, 2010a; Finneran *et al.*, 2010b; Finneran and Schlundt, 2013; Kastelein *et al.*, 2012a; Kastelein *et al.*, 2012b; Kastelein *et al.*, 2013a; Kastelein *et al.*, 2014a; Kastelein *et al.*, 2014b; Kastelein *et al.*, 2014c; Popov *et al.*, 2014; Popov *et al.*, 2013; Popov *et al.*, 2011; Muslow *et al.*, 2023; Finneran *et al.*, 2023). Considerable variation has been measured in individuals of the same species in both the amount of TTS incurred from similar cumulative SELs (Kastelein *et al.*, 2012a; Popov *et al.*, 2013) and the time-to-recovery from TTS (Finneran, 2015; Kastelein *et al.*, 2019e). Many of these studies relied on continuous sound exposures, but intermittent, impulsive sound exposures

have also been tested. Few studies (Finneran *et al.*, 2002; Lucke *et al.*, 2009; Sills *et al.*, 2020; Muslow *et al.*, 2023) using impulsive sounds have produced enough TTS to make predictions about hearing loss due to this source type (see U.S. Department of the Navy, 2025). In general, predictions of TTS based on cumulative SEL for this type of sound exposure are likely to overestimate TTS because some recovery from TTS may occur in the quiet periods between impulsive or intermittent sounds, especially when the duty cycle is low. Peak SPL (unweighted) is also used to predict TTS due to impulsive sounds (Southall *et al.*, 2007; Southall *et al.*, 2019c; U.S. Department of the Navy, 2025).

In some cases, associated with terrestrial mammal noise studies, intense noise exposures have caused AUD INJ (e.g., loss of cochlear neuron synapses), despite thresholds eventually returning to normal (*i.e.*, it is possible to have AUD INJ without a resulting PTS (e.g., Kujawa and Liberman, 2006, 2009; Fernandez *et al.*, 2015; Ryan *et al.*, 2016; Houser, 2021). In these situations, however, threshold shifts were 30–50 dB measured 24 hours after the exposure (*i.e.*, there is no evidence that an exposure resulting in less than 40 dB TTS measured a few minutes after exposure can produce AUD INJ). Therefore, an exposure producing 40 dB of TTS, measured a few minutes after exposure, can also be used as an upper limit to prevent AUD INJ (*i.e.*, it is assumed that exposures beyond those capable of causing 40 dB of TTS have the potential to result in INJ (which may or may not result in PTS)).

Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.*, 2007). When AUD INJ occurs, there is physical damage (*i.e.*, typically mechanical) to the sound receptors in the ear, whereas TTS represents primarily tissue fatigue (*i.e.*, typically metabolic) and is fully reversible (Southall *et al.*, 2007). AUD INJ is permanent (*i.e.*, there is incomplete recovery back to baseline/pre-exposure levels) but also can occur in a specific frequency range and amount as mentioned above for TTS. In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (e.g., Ward, 1997). Therefore, NMFS does not consider less than 40 dB of TTS to constitute AUD

INJ. The NMFS Acoustic Updated Technical Guidance (NMFS, 2024), which was used in the assessment of effects for this proposed rule, compiled, interpreted, and synthesized the best available scientific information for noise-induced hearing effects for marine mammals to derive updated thresholds for assessing the impacts of noise on marine mammal hearing.

While many studies have examined noise-induced hearing loss in marine mammals (see Finneran (2015) and Southall *et al.* (2019a) for summaries), published data on the onset of TTS for cetaceans are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise, and for pinnipeds in water, measurements of TTS are limited to harbor seals, elephant seals (*Mirounga* species), California sea lions (*Zalophus californianus*), and bearded seals. These studies examine hearing thresholds measured in marine mammals before and after exposure to intense sounds, which can then be used to determine the amount of threshold shift at various post-exposure times. NMFS has reviewed the available studies, which are summarized below (see also the 2025 SURTASS Draft SEIS/OEIS which includes additional discussion on TTS studies related to sonar and other transducers).

- The method used to test hearing may affect the resulting amount of measured TTS, with neurophysiological measures producing larger amounts of TTS compared to psychophysical measures (Finneran *et al.*, 2007; Finneran, 2015).

- The amount of TTS varies with the hearing test frequency. As the exposure SPL increases, the frequency at which the maximum TTS occurs also increases (Kastelein *et al.*, 2014b). For high-level exposures, the maximum TTS typically occurs one-half to one octave above the exposure frequency (Finneran *et al.*, 2007; Mooney *et al.*, 2009a; Nachtigall *et al.*, 2004; Popov *et al.*, 2011; Popov *et al.*, 2013; Schlundt *et al.*, 2000). The overall spread of TTS from tonal exposures can therefore extend over a large frequency range (*i.e.*, narrowband exposures can produce broadband (greater than one octave) TTS).

- The amount of TTS increases with exposure SPL and duration and is correlated with cumulative SEL, especially if the range of exposure durations is relatively small (Kastak *et al.*, 2007; Kastelein *et al.*, 2014b; Popov *et al.*, 2014). As the exposure duration increases, however, the relationship between TTS and cumulative SEL begins to break down. Specifically, duration has a more significant effect on

TTS than would be predicted on the basis of cumulative SEL alone (Finneran *et al.*, 2010a; Kastak *et al.*, 2005; Mooney *et al.*, 2009a). This means if two exposures have the same cumulative SEL but different durations, the exposure with the longer duration (thus lower SPL) will tend to produce more TTS than the exposure with the higher SPL and shorter duration. In most acoustic impact assessments, the scenarios of interest involve shorter duration exposures than the marine mammal experimental data from which impact thresholds are derived; therefore, use of cumulative SEL tends to overestimate the amount of TTS. Despite this, cumulative SEL continues to be used in many situations because it is relatively simple, more accurate than SPL alone, and lends itself easily to scenarios involving multiple exposures with different SPL (Finneran, 2015).

- Gradual increases of TTS over multiple exposures may not be directly observable with increasing exposure levels, before the onset of PTS (Reichmuth *et al.*, 2019). Similarly, PTS can occur without measurable behavioral modifications (Reichmuth *et al.*, 2019).

- The amount of TTS depends on the exposure frequency. Sounds at low frequencies, well below the region of highest susceptibility, are less hazardous than those at higher frequencies, near the region of highest susceptibility (Finneran and Schlundt, 2013). The onset of TTS—defined as the exposure level necessary to produce 6 dB of TTS (*i.e.*, clearly above the typical variation in threshold measurements)—also varies with exposure frequency. At the low frequency end of a species' hearing curve (*i.e.*, audiogram), onset-TTS exposure levels are higher compared to those in the region of best sensitivity.

- TTS can accumulate across multiple intermittent exposures, but the resulting TTS will be less than the TTS from a single, continuous exposure with the same cumulative SEL (Finneran *et al.*, 2010a; Kastelein *et al.*, 2014b; Kastelein *et al.*, 2015b; Mooney *et al.*, 2009b). This means that TTS predictions based on the total, cumulative SEL will overestimate the amount of TTS from intermittent exposures such as sonars and impulsive sources.

- The amount of observed TTS tends to decrease with increasing time following the exposure; however, the relationship is not monotonic (*i.e.*, increasing exposure does not always increase TTS). The time required for complete recovery of hearing depends on the magnitude of the initial shift; for

relatively small shifts recovery may be complete in a few minutes, while large shifts (*e.g.*, approximately 40 dB or greater) may require several days for recovery. Under many circumstances TTS recovers linearly with the logarithm of time (Finneran *et al.*, 2010a, 2010b; Finneran and Schlundt, 2013; Kastelein *et al.*, 2012a; Kastelein *et al.*, 2012b; Kastelein *et al.*, 2013a; Kastelein *et al.*, 2014b; Kastelein *et al.*, 2014c; Popov *et al.*, 2011; Popov *et al.*, 2013; Popov *et al.*, 2014). This means that for each doubling of recovery time, the amount of TTS will decrease by the same amount (*e.g.*, 6 dB recovery per doubling of time).

Nachtigall *et al.* (2018) and Finneran (2018) describe the measurements of hearing sensitivity of multiple odontocete species (*i.e.*, bottlenose dolphin, harbor porpoise, beluga, and false killer whale) when a relatively loud sound was preceded by a warning sound. These captive animals were shown to reduce hearing sensitivity when warned of an impending intense sound. Based on these experimental observations of captive animals, the authors suggest that wild animals may dampen their hearing during prolonged exposures or if conditioned to anticipate intense sounds. Finneran (2018) recommends further investigation of the mechanisms of hearing sensitivity reduction in order to understand the implications for interpretation of existing TTS data obtained from captive animals, notably for considering TTS due to short duration, unpredictable exposures.

Marine mammal hearing plays a critical role in communication with conspecifics and in interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals, ranging from discountable to serious, similar to those discussed in auditory masking below. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts if it were in the same frequency band as the necessary vocalizations and of a severity that impeded communication. The fact that animals

exposed to high levels of sound that would be expected to result in this physiological response would also be expected to have behavioral responses of a comparatively more severe or sustained nature is potentially more significant than the simple existence of a TTS. However, it is important to note that TTS could occur due to longer exposures to sound at lower levels so that a behavioral response may not be elicited.

Depending on the degree and frequency range, the effects of AUD INJ on an animal could also range in severity, although it is considered generally more serious than TTS because it is a permanent condition (Reichmuth *et al.*, 2019). Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals as well as in humans and other taxa (Southall *et al.*, 2007). We can infer that strategies exist for coping with this condition to some degree, though likely not without some cost to the animal.

As the amount of research on hearing sensitivity has grown, so, too, has the understanding that marine mammals may be able to self-mitigate or protect against noise-induced hearing loss. An animal may learn to reduce or suppress their hearing sensitivity when warned of an impending intense sound exposure, or if the duty cycle of the sound source is predictable, as has been demonstrated in some odontocete species (Finneran, 2018; Finneran *et al.*, 2024; Nachtigall and Supin, 2013, 2014, 2015; Nachtigall *et al.*, 2016a, 2016b, 2016c, 2018). This has been shown with several species, including the false killer whale (Nachtigall and Supin, 2013), bottlenose dolphin (Finneran, 2018; Nachtigall and Supin, 2014, 2015; Nachtigall *et al.*, 2016c), beluga whale (Nachtigall *et al.*, 2016a), and harbor porpoise (Nachtigall *et al.*, 2016b; Kastelein *et al.*, 2020). Additionally, Finneran *et al.* (2023) and Finneran *et al.* (2024) found that odontocetes that had participated in TTS experiments in the past could have learned from that experience and subsequently protected their hearing during new sound exposure experiments.

Behavioral Responses

Behavioral responses to sound are highly variable and context-specific (Nowacek *et al.*, 2007; Southall *et al.*, 2007; Southall *et al.*, 2019). Many different variables can influence an animal's perception of and response to (nature and magnitude) an acoustic event. An animal's prior experience with a sound or sound source affects whether it is less likely (habituation,

self-mitigation) or more likely (sensitization) to respond to certain sounds in the future (animals can also be innately predisposed to respond to certain sounds in certain ways) (Southall *et al.*, 2007; Southall *et al.*, 2016; Finneran, 2018; Finneran *et al.*, 2024; Nachtigall and Supin, 2013, 2014, 2015; Nachtigall *et al.*, 2015, 2016a, 2016b, 2018). Related to the sound itself, the perceived proximity of the sound, bearing of the sound (approaching vs. retreating), the similarity of a sound to biologically relevant sounds in the animal's environment (*i.e.*, calls of predators, prey, or conspecifics), familiarity of the sound, and navigational constraints may affect the way an animal responds to the sound (Ellison *et al.*, 2012; Southall *et al.*, 2007; DeRuiter *et al.*, 2013a; Southall *et al.*, 2021; Wartzok *et al.*, 2003). Individuals (of different age, sex, reproductive status, *etc.*) among most populations will have variable hearing capabilities, and differing behavioral sensitivities to sounds that will be affected by prior conditioning, experience, and current activities of those individuals. Southall *et al.*, (2007) and Southall *et al.* (2021) have developed and subsequently refined methods developed to categorize and assess the severity of acute behavioral responses, considering impacts to individuals that may consequently impact populations. Often, specific acoustic features of the sound and contextual variables (*i.e.*, proximity, duration, or recurrence of the sound or the current behavior that the marine mammal is engaged in or its prior experience), as well as entirely separate factors such as the physical presence of a nearby vessel, may be more relevant to the animal's response than the received level alone.

Studies by DeRuiter *et al.*, (2013a) indicate that variability of responses to acoustic stimuli depends not only on the species receiving the sound and the sound source, but also on the social, behavioral, or environmental contexts of exposure. Another study by DeRuiter *et al.*, (2013b) examined behavioral responses of goose-beaked whales to MF sonar and found that whales responded strongly at low received levels (89–127 dB re 1 μ Pa) by ceasing normal fluking and echolocation, swimming rapidly away, and extending both dive duration and subsequent non-foraging intervals when the sound source was 3.4–9.5 km away. Importantly, this study also showed that whales exposed to a similar range of received levels (78–106 dB re 1 μ Pa) from distant sonar exercises 118 km away did not elicit such responses,

suggesting that context may moderate responses.

Ellison *et al.* (2012) outlined an approach to assessing the effects of sound on marine mammals that incorporates contextual-based factors. The authors recommend considering not just the received level of sound, but also the activity the animal is engaged in at the time the sound is received, the nature and novelty of the sound (*i.e.*, whether this a new sound from the animal's perspective), and the distance between the sound source and the animal. They submit that this "exposure context," as described, greatly influences the type of behavioral response exhibited by the animal. Forney *et al.*, (2017) also point out that an apparent lack of response (*e.g.*, no displacement or avoidance of a sound source) may not necessarily mean there is no cost to the individual or population, as some resources or habitats may be of such high value that animals may choose to stay, even when experiencing stress or hearing loss. Forney *et al.*, (2017) recommend considering both the costs of remaining in an area of noise exposure such as TTS, PTS, or masking, which could lead to an increased risk of predation or other threats or a decreased capability to forage, and the costs of displacement, including potential increased risk of vessel strike, increased risks of predation or competition for resources, or decreased habitat suitability for foraging, resting, or socializing. This sort of contextual information is challenging to predict with accuracy for ongoing activities that occur over large spatial and temporal expanses. However, distance is one contextual factor for which data exist to quantitatively inform a take estimate, and the method for predicting Level B harassment in this proposed rule does consider distance to the source. Other factors are often considered qualitatively in the analysis of the likely consequences of sound exposure, where supporting information is available.

Friedlaender *et al.*, (2016) provided the first integration of direct measures of prey distribution and density variables incorporated into across-individual analyses of behavior responses of blue whales to sonar and demonstrated a five-fold increase in the ability to quantify variability in blue whale diving behavior. These results illustrate that responses evaluated without such measurements for foraging animals may be misleading, which again illustrates the context-dependent nature of the probability of response.

Exposure of marine mammals to sound sources can result in, but is not

limited to, no response or any of the following observable responses: (1) increased alertness; (2) orientation or attraction to a sound source; (3) vocal modifications; (4) cessation of feeding; (5) cessation of social interaction; (6) alteration of movement or diving behavior; habitat abandonment (temporary or permanent); and (in severe cases) (7) panic, flight, stampede, or stranding, potentially resulting in death (Southall *et al.*, 2007). A review of marine mammal responses to anthropogenic sound was first conducted by Richardson (1995). More recent reviews (Nowacek *et al.*, 2007; DeRuiter *et al.*, 2013a and 2013b; Ellison *et al.*, 2012; Gomez *et al.*, 2016; Erbe *et al.*, 2025) address studies conducted since 1995 and focused on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated. Gomez *et al.*, (2016) conducted a review of the literature considering the contextual information of exposure in addition to received level and found that higher received levels were not always associated with more severe behavioral responses and vice versa. Southall *et al.*, (2016) states that results demonstrate that some individuals of different species display clear yet varied responses, some of which have negative implications, while others appear to tolerate high levels, and that responses may not be fully predictable with simple acoustic exposure metrics (*e.g.*, received sound level). Rather, the authors state that differences among species and individuals along with contextual aspects of exposure (*e.g.*, behavioral state) appear to affect response probability (Southall *et al.*, 2019). The following parts provide examples of behavioral responses to stressors that provide an idea of the variability in responses that would be expected given the differential sensitivities of marine mammal species to sound and the wide range of potential acoustic sources to which a marine mammal may be exposed. Behavioral responses that could occur for a given sound exposure should be determined from the literature that is available for each species (see appendix B of the 2025 SURTASS Draft SEIS/OEIS for a comprehensive list of behavioral studies and species-specific findings) or extrapolated from closely related species when no information exists, along with contextual factors.

Responses Due to Sonar and Other Transducers

Baleen whales are hypothesized to react more strongly to LF sounds that overlap with their vocalization range.

One series of behavioral response studies (BRSs) was undertaken in 1997–1998 pursuant to the Navy's Low-Frequency Sound Scientific Research Program (LFS SRP). The frequency bands of LF sonars used were between 100 and 500 Hz, with received levels between 115 and 150 dB re 1 μ Pa. Exposures occurred on fin whale and blue whale foraging grounds, on humpback whale breeding grounds, and along gray whale (*Eschrichtius robustus*) migratory routes. These studies found short-term responses to LF sound by some individual fin and humpback whales, including changes in vocal activity and avoidance of the source vessel, while other fin, humpback, and blue whale individuals did not respond at all. When the source was in the path of migrating gray whales, they changed course up to 2 km to avoid the sound, but when the source was outside their path, little response was observed (Clark and Frstrup, 2001; Croll *et al.*, 2001; Frstrup *et al.*, 2003; Miller *et al.*, 2000; Nowacek *et al.*, 2007). These responses were short-lived across all individuals, and animals returned to their normal activities within tens of minutes after initial exposure (Clark and Frstrup, 2001). The context of an exposure scenario is important for determining the probability, magnitude, and duration of a response (Ellison *et al.*, 2012; Southall *et al.*, 2021).

At this time, no other BRSs have used an LFA (less than 1 kHz) sound source, so the applicability of all BRSs discussed herein to determining potential behavioral responses to the specified activities is limited. Specifically, while there are several studies illustrating the responses of LF species to MF sources (which are still in or near the most sensitive part of their predicted hearing range), many of the studies discussed below relate to the responses of HF hearing specialists to MF sources, which are essentially sources with frequencies in or near the most sensitive area of the species hearing, whereas (as noted above), all but LF species have significantly reduced sensitivity (9–65 dB and above) in the range of SURTASS LFA sonar. However, these data can generally inform the analysis of marine mammal response to sonar.

Mysticetes responses to sonar and other duty-cycled tonal sounds are dependent upon the characteristics of the signal, behavioral state of the animal, sensitivity and previous experience of an individual, and other contextual factors including distance of the source, movement of the source, physical presence of vessels, time of year, and geographic location

(Goldbogen *et al.*, 2013; Harris *et al.*, 2019a; Harris *et al.*, 2015; Martin *et al.*, 2015; Sivle *et al.*, 2015b). For example, a BRS in Southern California demonstrated that individual behavioral state was critically important in determining response of blue whales to Navy sonar. In this BRS, some blue whales engaged in deep (greater than 50 m) feeding behavior had greater dive responses than those in shallow feeding or non-feeding conditions, while some blue whales that were engaged in shallow feeding behavior demonstrated no clear changes in diving or movement even when received levels were high (approximately 160 dB re 1 μ Pa) from exposures to 3–4 kHz sonar signals, while others showed a clear response at exposures at lower received level of sonar and pseudorandom noise (Goldbogen *et al.*, 2013). Generally, behavioral responses were brief and of low to moderate severity, and the whales returned to baseline behavior shortly after the end of the acoustic exposure (DeRuiter *et al.*, 2017; Goldbogen *et al.*, 2013; Southall *et al.*, 2019c). To better understand the context of these behavioral responses, Friedlaender *et al.*, (2016) mapped the prey field of the deep-diving blue whales and found that the response to sound was more apparent for individuals engaged in feeding than those that were not. The probability of a moderate behavioral response increased when the source was closer for these foraging blue whales, although there was a high degree of uncertainty in that relationship (Southall *et al.*, 2019b). In the same BRS, none of the tagged fin whales demonstrated more than a brief or minor response regardless of their behavioral state (Harris *et al.*, 2019a). The fin whales were exposed to both mid-frequency simulated sonar and pseudorandom noise of similar frequency, duration, and source level. They were less sensitive to disturbance than blue whales, with no significant differences in response between behavioral states or signal types. The authors rated responses as low-to-moderate severity with no negative impact to foraging success (Southall *et al.*, 2023).

Similarly, while the rates of foraging lunges decrease in humpback whales due to sonar exposure, there was variability in the response across individuals, with one animal ceasing to forage completely and another animal starting to forage during the exposure (Sivle *et al.*, 2016). In addition, almost half of the animals that exhibited avoidance behavior were foraging before the exposure, but the others were not;

the animals that exhibited avoidance behavior while not feeding responded at a slightly lower received level and greater distance than those that were feeding (Wensveen *et al.*, 2017). These findings indicate that the behavioral state of the animal plays a role in the type and severity of a behavioral response. Henderson *et al.* (2019) examined tagged humpback whale dive and movement behavior, including individuals incidentally exposed to Navy sonar during training activities, at the Pacific Missile Range Facility (PMRF) off Kaua'i, Hawaii. Tracking data showed that, regardless of exposure to sonar, individual humpbacks spent limited time, no more than a few days, in the vicinity of Kaua'i. Potential behavioral responses due to sonar exposure were limited and may have been influenced by breeding and social behaviors. Martin *et al.*, (2015) found that the density of calling minke whales was reduced during periods of Navy training involving sonar relative to the periods before training began and increased again in the days following the completion of training activities. The responses of individual whales could not be assessed, so in this case it is unknown whether the decrease in calling animals indicated that the animals left the range or simply ceased calling. Harris *et al.*, (2019b) utilized acoustically generated minke whale tracks to statistically demonstrate changes in the spatial distribution of minke whale acoustic presence before, during, and after surface ship MFAS training. The spatial distribution of probability of acoustic presence was different in the "during" phase compared to the "before" phase, and the probability of presence at the center of ship activity during MFAS training was close to zero for both years. The "after" phases for both years retained lower probabilities of presence suggesting the return to baseline conditions may take more than 5 days. The results show a clear spatial redistribution of calling minke whales during surface ship MFAS training; however, a limitation of passive acoustic monitoring is that one cannot conclude if the whales moved away, went silent, or a combination of the two.

Building on this work, Durbach *et al.*, (2021) used the same data and determined that individual minke whales tended to be in either a fast or slow movement behavioral state while on the missile range, whereas the whales tended to be in the slow state in baseline or before periods but transitioned into the fast state with more directed movement during sonar

exposures. They also moved away from the area of sonar activity on the range, either to the north or east depending on where the activity was located; this explains the spatial redistribution found by Harris *et al.*, (2019b). Minke whales were also more likely to stop calling when in the fast movement behavioral state regardless of whether there was sonar activity and stop calling when in the slow movement behavioral state during sonar activity (Durbach *et al.*, 2021). Similarly, minke whale detections were reduced or ceased altogether during periods of sonar use off Jacksonville, Florida, (Norris *et al.*, 2012; Simeone *et al.*, 2015; U.S. Department of the Navy, 2013), especially with an increased ping rate (Charif *et al.*, 2015).

Odontocetes have varied, context-dependent behavioral responses to sonar and other transducers. Much of the research on odontocetes has been focused on understanding the impacts of sonar and other transducers on beaked whales because they were hypothesized to be more susceptible to behavioral disturbance after several strandings of beaked whales in which military MFAS was identified as a contributing factor (see *Stranding and Mortality* section). Subsequent BRSs have shown that beaked whales are likely more sensitive to disturbance than most other cetaceans. Many species of odontocetes have been studied during BRSs (though not for low frequency sources), including Blainville's beaked whale, goose-beaked whale, Baird's beaked whale, northern bottlenose whale, harbor porpoise, pilot whale, killer whale, sperm whale, false killer whale, melon-headed whale, bottlenose dolphin, rough-toothed dolphin, Risso's dolphin, Pacific white-sided dolphin, and Commerson's dolphin. Observed responses by Blainville's beaked whales, goose-beaked whales, Baird's beaked whales, and northern bottlenose whales (the largest of the beaked whales), to mid-frequency sonar sounds include cessation of clicking, decline in group vocal periods, termination of foraging dives, changes in direction to avoid the sound source, slower ascent rates to the surface, longer deep and shallow dive durations, and other unusual dive behaviors (DeRuiter *et al.*, 2013b; Hewitt *et al.*, 2022; Jacobson *et al.*, 2022; McCarthy *et al.*, 2011; Miller *et al.*, 2015; Moretti *et al.*, 2014; Southall *et al.*, 2011; Stimpert *et al.*, 2014; Tyack *et al.*, 2011).

During a BRS in Southern California, a tagged Baird's beaked whale exposed to simulated MFA sonar within 3 km increased swim speed and modified its dive behavior (Stimpert *et al.*, 2014).

One goose-beaked whale was also incidentally exposed to real Navy sonar located over 100 km away in addition to the source used in the controlled exposure study, and the authors did not detect similar responses at comparable received levels. Received levels from the MFA sonar signals from the controlled (3.4 to 9.5 km) exposures were calculated as 84–144 dB re 1 μ Pa, and incidental (118 km) exposures were calculated as 78–106 dB re 1 μ Pa, indicating that context of the exposures (*e.g.*, source proximity, controlled source ramp-up) may have been a significant factor in the responses to the simulated sonars (DeRuiter *et al.*, 2013b).

Long-term tagging work during the same BRS demonstrated that the longer duration dives considered a behavioral response by DeRuiter *et al.* (2013b) fell within the normal range of dive durations found for eight tagged goose-beaked whales on the Southern California Offshore Range (Schorr *et al.*, 2014). However, the longer inter-deep dive intervals found by DeRuiter *et al.*, (2013b), which were among the longest found by Schorr *et al.*, (2014) and Falcone *et al.*, (2017), may indicate a response to sonar. Williams *et al.*, (2017) note that during normal deep dives or during fast swim speeds, beaked whales and other marine mammals use strategies to reduce their stroke rates (*e.g.*, leaping, wave surfing when swimming, interspersing glides between bouts of stroking when diving). The authors determined that in the post-exposure dives by the tagged goose-beaked whales described in DeRuiter *et al.*, (2013b), the whales ceased gliding and swam with almost continuous strokes. This change in swim behavior was calculated to increase metabolic costs by about 30.5 percent and increase the amount of energy expending on fast swim speeds from 27 to 59 percent of their overall energy budget. This repartitioning of energy was detected in the model up to 1.7 hours after the single sonar exposure. Therefore, while the overall post-exposure dive durations were similar, the metabolic energy calculated by Williams *et al.*, (2017) was higher. However, Southall *et al.*, (2019a) found that prey availability was higher in the western area of the Southern California Offshore Range where goose-beaked whales preferentially occurred, while prey resources were lower in the eastern area and moderate in the area just north of the Range. This high prey availability may indicate that goose-beaked whales need fewer foraging dives to meet energy requirements than

would be needed in another area with fewer resources.

During a BRS in Norway, northern bottlenose whales avoided a sonar sound source over a wide range of distances (0.8 to 28 km) and estimated avoidance thresholds ranging from received SPLs of 117 to 126 dB re 1 μ Pa. The behavioral response characteristics and avoidance thresholds were comparable to those previously observed in beaked whale studies; however, researchers did not observe an effect of distance on behavioral response and found that onset and intensity of behavioral response were better predicted by received SPL. There was one instance where an individual northern bottlenose whale approached the vessel, circled the sound source (source level was only 122 dB re 1 μ Pa), and resumed foraging after the exposure. Conversely, one northern bottlenose whale exposed to a sonar source was documented performing the longest and deepest dive on record for the species, and continued swimming away from the source for more than 7 hours (Miller *et al.*, 2015; Siegal *et al.*, 2022; Wensveen *et al.*, 2019).

Research on Blainville's beaked whales at the Atlantic Undersea Test and Evaluation Center (AUTEK) range has shown that individuals move off-range during sonar use, only returning after the cessation of sonar transmission (Boyd *et al.*, 2009; Henderson *et al.*, 2015; Jones-Todd *et al.*, 2021; Manzano-Roth *et al.*, 2022; Manzano-Roth *et al.*, 2016; McCarthy *et al.*, 2011; Tyack *et al.*, 2011). Five Blainville's beaked whales estimated to be within 2 to 29 km of the AUTEK range at the onset of active sonar were displaced a maximum of 28 to 68 km after moving away from the range, although one individual did approach the range during active sonar use. Researchers found a decline in deep dives at the onset of the training and an increase in time spent on foraging dives as whales moved away from the range. Predicted received levels at which presumed responses were observed were comparable to those previously observed in beaked whale studies. Acoustic data indicated that vocal periods were detected on the range within 72 hours after training ended (Joyce *et al.*, 2019). However, Blainville's beaked whales have been documented to remain on-range to forage throughout the year (Henderson *et al.*, 2016), indicating the AUTEK range may be a preferred foraging habitat regardless of the effects of active sonar noise, or it could be that there are no long-term consequences of the sonar activity. In the SOCAL Range Complex, researchers conducting photo-

identification studies have identified approximately 100 individual goose-beaked whales, with 40 percent having been seen in one or more prior years, with re-sightings up to 7 years apart, indicating a possible on-range resident population (Falcone and Schorr, 2014; Falcone *et al.*, 2009).

The probability of Blainville's beaked whale group vocal periods on the PMRF were modeled during periods of: (1) no naval activity; (2) naval activity without hull-mounted MFA sonar; and (3) naval activity with hull-mounted MFA sonar (Jacobson *et al.*, 2022). At a received level of 150 dB re 1 μ Pa RMS SPL, the probability of detecting a group vocal period during MFA sonar use decreased by 77 percent compared to periods when general training activity was ongoing, and by 87 percent compared to baseline (no naval activity) conditions. Jacobsen *et al.*, (2022) found a greater reduction in probability of a group vocal period with MFA sonar than observed in a prior study of the same species at the AUTEK range (Moretti *et al.*, 2014), which may be due to the baseline period in the AUTEK study including naval activity without MFA sonar, potentially lowering the baseline group vocal period activity in that study, or due to differences in the residency of the populations at each range.

Stanistreet *et al.* (2022) used passive acoustic recordings during a multinational naval activity to assess marine mammal acoustic presence and behavioral response to especially long bouts of sonar lasting up to 13 consecutive hours, occurring repeatedly over 8 days (median and maximum SPL = 120 dB and 164 dB). Goose-beaked whales and sperm whales substantially reduced how often they produced clicks during sonar activity, indicating a decrease or cessation in foraging behavior. Few previous studies have shown sustained changes in foraging or displacement of sperm whales, but there was an absence of sperm whale clicks for 6 consecutive days of sonar activity. Sperm whales returned to baseline levels of clicks within days after the activity, but beaked whale click detection rates remained low even 7 days after the exercise. In addition, there were no click detections from a Mesoplodon beaked whale species within the area during, and at least 7 days after, the sonar activity. Clicks from northern bottlenose whales and Sowerby's beaked whales were also detected but were not frequent enough at the recording site used to compare clicks between baseline and sonar conditions.

Goose-beaked whale behavioral responses (*i.e.*, deep and shallow dive

durations, surface interval durations, inter-deep dive intervals) on the Southern California Anti-Submarine Warfare Range were modeled against predictor values that included helicopter dipping sonar, mid-power MFA sonar and hull-mounted, high-power MFA sonar along with other non-MFA sonar predictors (Falcone *et al.*, 2017). Falcone *et al.* (2017) found both shallow and deep dive durations increased as the proximity to both mid- and high-powered sources decreased and found that surface intervals and inter-deep dive intervals increased in the presence of both types of sonars (helicopter dipping and hull-mounted), although surface intervals shortened during periods without MFA sonar. Proximity of source and receiver were important considerations, as the responses to the mid-power MFA sonar at closer ranges were comparable to the responses to the higher source level vessel sonar, as was the context of the exposure. Helicopter dipping sonars are shorter duration and randomly located, therefore more difficult to predict or track by beaked whales and potentially more likely to elicit a response, especially at closer distances (6 to 25 km) (Falcone *et al.*, 2017).

Sea floor depths and quantity of light (*i.e.*, lunar cycle) are also important variables to consider in BRSs, as goose-beaked whale foraging dive depth increased with sea floor depth (maximum 2,000 m) and the amount of time spent at foraging depths (and likely foraging) was greater at night (likely avoiding predation by staying deeper during periods of bright lunar illumination), although they spent more time near the surface during the night, as well, particularly on dark nights with little moonlight (Barlow *et al.*, 2020). Sonar occurred during 10 percent of the dives studied and had little effect on the resulting dive metrics. Watwood *et al.*, (2017) found that the longer the duration of a sonar event, the greater reduction in detected goose-beaked whale group dives and, as helicopter dipping events occurred more frequently but with shorter durations than periods of hull-mounted sonar, when looking at the number of detected group dives there was a greater reduction during periods of hull-mounted sonar than during helicopter dipping sonar. DiMarzio *et al.* (2019) also found that group vocal periods (*i.e.*, clusters of foraging pulses), on average, decreased during sonar events on the Southern California Anti-Submarine Warfare Range, though the decline from before the event to during the event was significantly less for helicopter dipping

events than hull-mounted events, and there was no difference in the magnitude of the decline between vessel-only events and events with both vessels and helicopters. Manzano-Roth *et al.* (2022) analyzed long-term passive acoustic monitoring data from the PMRF in Kaua'i, Hawaii, and found beaked whales reduced group vocal periods during submarine command course events and remained low for a minimum of 3 days after the MFA sonar activity.

Harbor porpoise behavioral responses have been researched extensively using acoustic deterrent and acoustic harassment devices; however, BRSs using sonar are limited. Kastelein *et al.* (2018b) found harbor porpoises did not respond to low-duty cycle mid-frequency sonar tones (3.5–4.1 kHz at 2.7 percent duty cycle; *e.g.*, one tone per minute) at any received level, but one individual did respond (*i.e.*, increased jumping, increased respiration rates) to high-duty cycle sonar tones (3.5–4.1 kHz at 96 percent duty cycle; *e.g.*, continuous tone for almost a minute).

Behavioral responses by odontocetes (other than beaked whales and harbor porpoises) to sonar and other transducers include horizontal avoidance, reduced breathing rates, changes in behavioral state, changes in dive behavior (Antunes *et al.*, 2014; Isojunno *et al.*, 2018; Isojunno *et al.*, 2017; Isojunno *et al.*, 2020; Miller *et al.*, 2012; Miller *et al.*, 2011; Miller *et al.*, 2014; Southall *et al.*, 2024), and, in one study, separation of a killer whale calf from its group (Miller *et al.*, 2011). Some species of dolphin (*e.g.*, bottlenose, spotted, spinner, Clymene, Pacific white-sided, rough-toothed) are frequently documented bowriding with vessels and the drive to engage in bowriding, whether for pleasure or energetic savings (Fiori *et al.*, 2024) may supersede the impact of associated sonar noise (Würsig *et al.*, 1998).

In controlled exposure experiments on captive odontocetes, Houser *et al.* (2013a) recorded behavioral responses from bottlenose dolphins with 3 kHz sonar-like tones between 115 and 185 dB re 1 μ Pa, and individuals across 10 trials demonstrated a 50 percent probability of response at 172 dB re 1 μ Pa. Multiple studies have been conducted on bottlenose dolphins and beluga whales to measure TTS (Finneran *et al.*, 2003a; Finneran *et al.*, 2001; Finneran *et al.*, 2005; Finneran and Schlundt, 2004; Schlundt *et al.*, 2000). During these studies, when individuals were presented with 1-second tones up to 203 dB re 1 μ Pa, responses included changes in respiration rate, fluke slaps, and a

refusal to participate or return to the location of the sound stimulus, including what appeared to be deliberate attempts by animals to avoid a sound exposure (Finneran *et al.*, 2002; Schlundt *et al.*, 2000). Bottlenose dolphins exposed to more intense 1-second tones exhibited short-term changes in behavior above received levels of 178–193 dB re 1 μ Pa, and beluga whales did so at received levels of 180–196 dB re 1 μ Pa and above.

While several opportunistic observations of odontocete (other than beaked whales and harbor porpoises) responses have been recorded during previous Navy activities and BRSs that employed sonar and sonar-like sources, it is difficult to definitively attribute responses of non-focal species to sonar exposure. Responses range from no response to potential highlight-impactful responses, such as the separation of a killer whale calf from its group (Miller *et al.*, 2011). This may be due, in part, to the variety of species and sensitivities of the odontocete taxonomic group, as well as the breadth of study types conducted and field observations, leading to the assessment of both contextually driven and dose-based responses. The available data indicate exposures to sonar in close proximity and with multiple vessels approaching an animal likely lead to higher-level responses by most odontocete species, regardless of received level or behavioral state. However, when sources are further away and moving in variable directions, behavioral responses are likely driven by behavioral state, individual experience, or species-level sensitivities, as well as exposure duration and received level, with the likelihood of response increasing with increased received levels. As such, it is expected odontocete behavioral responses to sonar and other transducers will vary by species, populations, and individuals, and long-term consequences or population-level effects are likely dependent upon the frequency and duration of the exposure and resulting behavioral response.

Pinniped behavioral response to sonar and other transducers is context-dependent (*e.g.*, Hastie *et al.*, 2014; Southall *et al.*, 2019). All studies on pinniped response to sonar thus far have been limited to captive animals, though, based on exposures of wild pinnipeds to vessel noise and impulsive sounds (see Responses Due to Vessel Noise section), pinnipeds may only respond strongly to military sonar that is in close proximity or approaching an animal. Kvadsheim *et al.* (2010b) found that captive hooded seals exhibited

avoidance response to sonar signals between 1 and 7 kHz (160–170 dB re 1 μ Pa RMS SPL) by reducing diving activity, rapid surface swimming away from the source, and eventually moving to areas of least SPL. However, the authors noted a rapid adaptation in behavior (passive surface floating) during the second and subsequent exposures, indicating a level of habituation within a short amount of time. Kastelein *et al.* (2015c) exposed captive harbor seals to three different sonar signals at 25 kHz with variable waveform characteristics and duty cycles and found individuals responded to a frequency modulated signal at received levels over 137 dB re 1 μ Pa by hauling out more, swimming faster, and raising their heads or jumping out of the water. However, seals did not respond to a continuous wave or combination signals at any received level (up to 156 dB re 1 μ Pa). Houser *et al.* (2013a) conducted a study to determine behavioral responses of captive California sea lions to MFA sonar at various received levels (125–185 dB re 1 μ Pa). They found younger animals (less than 2 years old) were more likely to respond than older animals and responses included increased respiration rate, increased time spent submerged, refusal to participate in a repetitive task, and hauling out. Most responses below 155 dB re 1 μ Pa were changes in respiration, while more severe responses (*i.e.*, refusing to participate, hauling out) began to occur over 170 dB re 1 μ Pa, and many of the most severe responses came from the young sea lions.

Responses Due to Vessel Noise

Mysticetes have varied responses to vessel noise and presence, from having no response to approaching vessels to exhibiting an avoidance response by both horizontal (swimming away) and vertical (increased diving) movement (Baker *et al.*, 1983; Fiori *et al.*, 2019; Gende *et al.*, 2011; Watkins, 1981). Avoidance responses include changing swim patterns, speed, or direction (Jahoda *et al.*, 2003), remaining submerged for longer periods of time (Au and Green, 2000), and performing shallower dives with more frequent surfacing. Behavioral responses to vessels range from smaller-scale changes, such as altered breathing patterns (*e.g.*, Baker *et al.*, 1983; Jahoda *et al.*, 2003), to larger-scale changes such as a decrease in apparent presence (Anderwald *et al.*, 2013). Other common behavioral responses include changes in vocalizations, surface time, feeding and social behaviors (Au and Green, 2000; Dunlop, 2019; Fournet *et al.*, 2018;

Machernis *et al.*, 2018; Richter *et al.*, 2003; Williams *et al.*, 2002a). For example, North Atlantic right whales (NARWs) have been reported to increase the amplitude or frequency of their vocalizations or call at a lower rate in the presence of increased vessel noise (Parks *et al.*, 2007; Parks *et al.*, 2011) but generally demonstrate little to no response to vessels or sounds from approaching vessels and often continue to use habitats in high vessel traffic areas (Nowacek *et al.* 2004a). This lack of response may be due to habituation to the presence and associated noise of vessels in NARW habitat or may be due to propagation effects that may attenuate vessel noise near the surface (Nowacek *et al.*, 2004a; Terhune and Verboom, 1999).

Mysticete behavioral responses to vessels may also be affected by vessel behavior (Di Clemente *et al.*, 2018; Fiori *et al.*, 2019). Avoidance responses occurred most often after “J” type vessel approaches (*i.e.*, traveling parallel to the whales’ direction of travel, then overtaking the whales by turning in front of the group) compared to parallel or direct approaches. Mother humpbacks were particularly sensitive to direct and J type approaches and spent significantly more time diving in response (Fiori *et al.*, 2019). The presence of a passing vessel did not change the behavior of resting humpback whale mother-calf pairs, but fast vessels with louder low-frequency weighted source levels (173 dB re 1 μ Pa, equating to weighted received levels of 133 dB re 1 μ Pa) at an average distance of 100 m resulted in a decreased resting behavior and increases in dives, swim speeds, and respiration rates (Sprogis *et al.*, 2020).

Overall, mysticete responses to vessel noise and traffic are varied, and habituation or changes to vocalization are predominant long-term responses. When baleen whales do avoid vessels, they seem to do so by altering their swim and dive patterns to move away from the vessel. Although a lack of response in the presence of a vessel may minimize potential disturbance from passing vessels, it does increase the whales’ vulnerability to vessel strike, which may be of greater concern for mysticetes than vessel noise.

Odontocete responses due to vessel noise are varied and context-dependent, and it is difficult to separate the impacts of vessel noise from the impacts of vessel presence. Vessel presence has been shown to interrupt feeding behavior in delphinids in some studies (Meissner *et al.*, 2015; Pirotta *et al.*, 2015b) while a recent study by Mills *et al.* (2023) found that, in an important

foraging area, bottlenose dolphins may continue to forage and socialize even while constantly exposed to high vessel traffic. Ng and Leung (2003) found that the type of vessel, approach, and speed of approach can all affect the probability of a negative behavioral response and, similarly, Guerra *et al.* (2014) documented varied responses in group structure and vocal behavior.

While most odontocetes have documented neutral responses to vessels, avoidance (Bejder *et al.*, 2006a; Würsig *et al.*, 1998) and attraction (Norris and Prescott, 1961; Ritter, 2002; Shane *et al.*, 1986; Westdal *et al.*, 2023; Würsig *et al.*, 1998) behaviors have also been observed (Hewitt, 1985).

Information is limited on beaked whale responses to vessel noise, but Würsig *et al.* (1998) noted that most beaked whales seem to exhibit avoidance behaviors when exposed to vessels and beaked whales may respond to all anthropogenic noise (*i.e.*, sonar, vessel) at similar sound levels (Aguilar de Soto *et al.*, 2006; Tyack *et al.*, 2011; Tyack, 2009). The information available includes a disruption of foraging by a vocalizing goose-beaked whale in the presence of a passing vessel (Aguilar de Soto *et al.*, 2006) and restriction of group movement, or possibly reduction in the number of individuals clicking within the group, after exposure to broadband (received level of 135 dB re 1 μ Pa) vessel noise up to at least 5.2 km away from the source, though no change in duration of Blainville’s beaked whale foraging dives was observed (Pirotta *et al.*, 2012).

Porpoises and small delphinids are known to be sensitive to vessel noise, as well. It should be noted that fewer responses in populations of odontocetes regularly subjected to high levels of vessel traffic could be a sign of habituation, or a sign that the more sensitive individuals in the population have abandoned that area of higher human activity.

Lusseau and Bejder (2007) have reported some long-term consequences of vessel noise on odontocetes but, overall, there is little information on the long-term and cumulative impacts of vessel noise (National Academies of Sciences Engineering and Medicine, 2017; NMFS, 2007). Many researchers speculate that long-term impacts may occur on odontocete populations that experience repeated interruption of foraging behaviors (Stockin *et al.*, 2008), and Southall *et al.* (2021) indicates that, in many contexts, the localized and coastal home ranges typical of many species make them less resilient to sustained or repeated vessel noise than mysticetes.

Context and experience likely play a role in pinnipeds response to vessel noise, which vary from negative responses including increased vigilance and alerting to avoidance to reduced time spent doing biologically important activities (*e.g.*, resting, feeding, and nursing) (Martin *et al.*, 2023a; Martin *et al.*, 2022; Mikkelsen *et al.*, 2019; Richardson *et al.*, 1995) to attraction or lack of observable response (Richardson *et al.*, 1995). More severe responses, like flushing, could be more detrimental to individuals during biologically important activities and times, such as during pupping season. Blundell and Pendleton (2015) found that vessel presence reduces haul out time of Alaskan harbor seals during pupping season and larger vessels elicit stronger responses. Cates and Acevedo-Gutiérrez (2017) modeled harbor seal responses to passing vessels at haul out sites in less trafficked areas and found the model best predicting flushing behavior included the number of boats, type of boats, and distance of seals to boats. The authors noted flushing occurred more in response to non-motorized vessels (*e.g.*, kayaks), likely because they tended to pass closer (25 to 184 m) to haul out sites than motorized vessels (55 to 591 m) and tended to occur in groups rather than as a single vessel.

Cape fur seals were also more responsive to vessel noise at sites with a large breeding colony than at sites with lower abundances of conspecifics (Martin *et al.*, 2023a). A field study of harbor and gray seals showed that seal responses to vessels included interruption of resting and foraging during times when vessel noise was increasing or at its peak (Mikkelsen *et al.*, 2019). And, although no behavioral differences were observed in hauled out wild cape fur seals exposed to low (60–64 dB re 20 μ Pa RMS SPL), medium (64–70 dB) and high-level (70–80 dB) vessel noise playbacks, mother-pup pairs spent less time nursing (15–31 percent) and more time awake (13–26 percent), vigilant (7–31 percent), and mobile (2–4 percent) during vessel noise conditions compared to control conditions (Martin *et al.*, 2022). Of note, the T-AGOS vessels engaged in SURTASS LFA sonar activities would remain at least 22 km from emergent land and islands, thereby avoiding pinniped colonies and haulouts.

Masking

Sound can disrupt behavior through masking, or interfering with, an animal’s ability to produce, detect, recognize, interpret, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication

and social interactions, prey detection, predator avoidance, or navigation) (Clark *et al.*, 2009; Richardson *et al.*, 1995; Erbe and Farmer, 2000; Tyack, 2000; Erbe *et al.*, 2016; Branstetter and Sills, 2022; Erbe *et al.*, 2025). Masking occurs when the production or receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity and may occur whether the coincident sound is natural (*e.g.*, snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.*, shipping, sonar, seismic exploration) in origin.

The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.*, signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.*, sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age, or TTS hearing loss) and/or ability to produce a signal (communication masking), and existing ambient noise and propagation conditions. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations. Masking can lead to behavioral changes including vocal changes (*e.g.*, Lombard effect, increasing amplitude, or changing frequency or timing of vocalizations), cessation of foraging, and leaving an area, to both signalers and receivers, in an attempt to compensate for noise levels (Erbe *et al.*, 2016).

Most research on auditory masking is focused on energetic masking, or the ability of the receiver (*i.e.*, listener) to detect a signal in noise. However, from a fitness perspective, both signal detection and signal interpretation are necessary for success. This type of masking is called informational masking and occurs when a signal is detected by an animal but the meaning of that signal has been lost. Few data exist on informational masking in marine mammals, but studies have shown that some recognition of predator cues might be missed by species that are preyed upon by killer whales if killer whale vocalizations are masked (Curé *et al.*, 2016; Curé *et al.*, 2015; Deecke *et al.*, 2002; Isojunno *et al.*, 2016; Visser *et al.*, 2016).

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (*i.e.*, masking) sound is man-made, it may be considered harassment when, in the

case of military readiness activities, disrupting natural behavioral patterns to the point where the behavior is abandoned or significantly altered. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs only during the sound exposure. Because masking (without resulting in threshold shift) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

Richardson *et al.* (1995) argued that the maximum radius of influence of anthropogenic noise (including broadband low-frequency sound transmission) on a marine mammal is the distance from the source to the point at which the noise can barely be heard. This range is determined by either the hearing sensitivity (including critical ratios, or the lowest signal-to-noise ratio in which animals can detect a signal) of the animal (Finneran and Branstetter, 2013; Johnson *et al.*, 1989; Southall *et al.*, 2000) or the background noise level present (Hatch *et al.*, 2016). Masking is most likely to affect some species' ability to detect communication calls and natural sounds (*i.e.*, surf noise, prey noise, *etc.*) (Clark *et al.*, 2009; Erbe *et al.*, 2025; Richardson *et al.*, 1995).

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals, like SURTASS LFA sonar, may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.*, Clark *et al.*, 2009; Matthews *et al.*, 2016; Erbe *et al.*, 2016) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.*, Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007; Di Iorio and Clark, 2010; Holt *et al.*, 2009; Tennessen *et al.*, 2024). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.*, 1995; Erbe *et al.*, 2025), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014; Erbe *et al.*, 2016; Branstetter and Sills, 2022). Masking can be tested directly in captive species, but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies

addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.*, Cholewiak *et al.*, 2018; Branstetter and Sills, 2022; Branstetter *et al.*, 2024; Tennessen *et al.*, 2024).

Impacts on signal detection, measured by masked detection thresholds, are not the only important factors to address when considering the potential effects of masking. As marine mammals use sound to recognize conspecifics, prey, predators, or other biologically significant sources (Branstetter *et al.*, 2016), it is also important to understand the impacts of masked recognition thresholds (*i.e.*, informational masking). Branstetter *et al.* (2016) measured masked recognition thresholds for whistle-like sounds of bottlenose dolphins and observed that they are approximately 4 dB above detection thresholds (energetic masking) for the same signals. Reduced ability to recognize a conspecific call or the acoustic signature of a predator could have severe negative impacts. Branstetter *et al.* (2016) observed that if "quality communication" is set at 90 percent recognition the output of communication space models (which are based on 50 percent detection) would likely result in a significant decrease in communication range.

As marine mammals use sound to recognize predators (Allen *et al.*, 2014; Cummings and Thompson, 1971; Curé *et al.*, 2015; Fish and Vania, 1971), the presence of masking noise may also prevent marine mammals from responding to acoustic cues produced by their predators, particularly if it occurs in the same frequency band. For example, harbor seals that reside in the coastal waters of British Columbia are frequently targeted by mammal-eating killer whales. The seals acoustically discriminate between the calls of mammal-eating and fish-eating killer whales (Deecke *et al.*, 2002), a capability that should increase survivorship while reducing the energy required to identify all killer whale calls. Similarly, sperm whales (Curé *et al.*, 2016; Isojunno *et al.*, 2016), long-finned pilot whales (Visser *et al.*, 2016), and humpback whales (Curé *et al.*, 2015) changed their behavior in response to killer whale vocalization playbacks. The potential effects of masked predator acoustic cues depend on the duration of the masking noise and the likelihood of a marine mammal encountering a predator during the time that detection and recognition of predator cues are impeded. Given its low frequency, the SURTASS LFA sonar signal would be expected to interfere little, if at all, with marine mammal predator vocalization.

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or anthropogenic noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a vessel or industrial site. Directional hearing may significantly reduce the masking effects of these sounds by improving the effective signal-to-noise ratio (Erbe *et al.*, 2016).

Masking affects both senders and receivers of acoustic signals and, when present at large scales (*e.g.*, spatial and/or temporal), can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in some of the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009; Cholewiak *et al.*, 2018). All anthropogenic sound sources, but especially chronic, continuous, and lower-frequency signals (*e.g.*, from commercial vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking for marine mammals.

Masking Due to Sonar and Other Transducers

Masking can reduce the ranges over which marine mammals can detect biologically relevant sounds in the presence of high-duty cycle sources. Lower-duty cycle sonars have less of a masking effect as sonar tones occur over a relatively short duration, thus the listener can detect signals of interest during the quiet periods between cycles. The LFA sonar duty cycle averages 7.5–10 percent with a maximum of 20 percent; however, single pulses range from 6 to 100 seconds with an average of 60 seconds. Additionally, sonar tones occur over a relatively narrow bandwidth, which means the signal is unlikely to overlap more than a small portion of the vocalizations for most species. LFA sonar signals are limited to the 100–500 Hz range. For large mysticetes, the range of best hearing is estimated between 0.1 and 10 kHz, which overlaps with SURTASS LFA sonar sources. Additionally, many of their vocalizations are below 1 kHz, which overlaps with low-frequency sources. Any auditory impacts (TTS and AUD INJ) or masking may affect

communication due to low-frequency sonars.

As noted previously in the *Marine Mammal Hearing Groups* section (table 3, figure 2, and figure 3, specifically), most marine mammal taxa (with the exception of LF hearing specialists) have significantly reduced hearing sensitivity in the 100–500 Hz range of SURTASS LFA sonar. Specifically, the HF cetacean species weighting function curve shows 17–40 dB reduced sensitivity in that frequency range (*i.e.*, the sound would be perceived as that much lower level than a sound in the most susceptible portion of their hearing range), the underwater pinniped weighting function curves show from 9–30-dB reductions, and the VHF cetacean weighting function curve shows a 47–65 dB reduction at frequencies from 200 to 500 Hz (*i.e.*, generalized hearing range for this hearing group starts at 200 Hz) and suggest even further reduced sensitivity. Even the LF cetacean species have somewhat reduced sensitivity in the 100 to 500 Hz range (0.5–6 dB). Any masking by LFA sonar would be expected to coincide with the time they are in the vicinity of a transmitting vessel (vessels would be transmitting, at most, 8 hours per day) and overlapping with only a small portion of the hearing range (given the narrow bandwidth). LFA sonar could overlap in frequency with mysticete vocalizations; however, LFA sonar overlaps little or not at all with vocalizations for most other marine mammal species, and especially not with high-frequency echolocation calls of odontocetes. For example, in the presence of LFA sonar, humpback whales were observed to increase the length of their songs (Fristrup *et al.*, 2003; Miller *et al.*, 2000), potentially due to the overlap in frequencies between the whale song and the LFA sonar.

High-frequency (10–100 kHz) sonars, including the HF/M3 source (frequency range of 30–40 kHz), fall within the best hearing and vocalization ranges of most odontocetes; however, the HF/M3 source is an intermittent source with a low duty cycle, thus less likely to overlap both hearing and vocalizations, and high frequency sounds attenuate more rapidly in the water due to absorption than do lower frequency sounds, thus producing a smaller zone of potential masking than mid- and low-frequency sounds. While high-frequency sonar has the potential to mask marine mammal vocalizations under certain conditions, reduction in available communication space or ability to locate prey is unlikely because of the small zone of effect.

For other mysticetes, the range of best hearing and vocalizations is typically between 1 and 30 kHz, which overlaps with mid- and high-frequency sonar sources. Masking from high-frequency sonar sources would be less likely to affect communication for these mysticetes than impacts due to low-frequency sonars. Odontocetes that use echolocation to hunt may experience masking of the echoes needed to find their prey when foraging near low-frequency and mid-frequency sonar sources. Communication sounds could also be masked by these sources. This effect is likely to be temporary in offshore areas where these sources would operate. Odontocetes with very high frequency hearing, such as harbor porpoises, may experience masking of echolocation and communication calls from close-proximity very-high-frequency sources, but these effects are likely to be transient and temporary in the case of the HF/M3, given the small impact zone. Pinnipeds may also experience masking due to low- and mid-frequency sources because their communication calls range from approximately 0.1–30 kHz. Some species of pinnipeds communicate primarily in air and would not experience masking due to underwater sonar use. Any impacts from masking would generally be expected to occur within the same areas for which direct behavioral disturbance from the SURTASS sources is quantified in the Estimated Take of Marine Mammals section.

Masking Due to Vessel Noise

Masking is more likely to occur in the presence of broadband, relatively continuous noise sources such as vessels; however, we note that this rule contemplates no more than four vessels traversing an ocean basin at greater than 22 km from shore (away from where marine mammal densities are higher), resulting in a very low likelihood of any meaningful masking resulting from the noise of the vessels themselves. Several studies have shown decreases in marine mammal communication space and changes in behavior as a result of the presence of vessel noise. For example, NARWs were observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007) as well as increasing the amplitude (intensity) of their calls (Parks, 2009; Parks *et al.*, 2011). Fournet *et al.* (2018) observed that humpback whales in Alaska responded to increasing ambient sound levels (natural and anthropogenic) by increasing the source levels of their calls (non-song

vocalizations). Clark *et al.* (2009) also observed that right whales' communication space decreased by up to 84 percent in the presence of vessels. Cholewiak *et al.* (2018) also observed loss in communication space in Stellwagen National Marine Sanctuary for NARWs, fin whales, and humpback whales with increased ambient noise and shipping noise. Gabriele *et al.* (2018) modeled the effects of vessel traffic sound on communication space in Glacier Bay National Park in Alaska and found that typical summer vessel traffic in Glacier Bay National Park causes losses of communication space to singing whales (reduced by 13–28 percent), calling whales (18–51 percent), and roaring seals (32–61 percent), particularly during daylight hours and even in the absence of cruise ships. Dunlop (2019) observed that an increase in vessel noise reduced modeled communication space and resulted in significant reduction in group social interactions in Australian humpback whales. However, communication signal masking did not fully explain this change in social behavior in the model, indicating there may also be an additional effect of the physical presence of the vessel on social behavior (Dunlop, 2019). Although humpback whales off Australia did not change the frequency or duration of their vocalizations in the presence of ship noise, their source levels were lower than expected based on source level changes to wind noise, potentially indicating some signal masking (Dunlop, 2016). Multiple delphinid species have also been shown to increase the minimum or maximum frequencies of their whistles in the presence of anthropogenic noise and reduced communication space (*e.g.*, Holt *et al.*, 2009; Holt *et al.*, 2011; Gervaise *et al.*, 2012; Williams *et al.*, 2014; Hermannsen *et al.*, 2014; Papale *et al.*, 2015; Liu *et al.*, 2017).

Other Physiological Responses

Physiological stress is a natural and adaptive process that helps an animal survive changing conditions. When an animal perceives a potential threat, whether or not the stimulus actually poses a threat, a stress response is triggered (Selye, 1950; Moberg, 2000; Sapolsky, 2005). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses.

The primary distinction between stress (which is adaptive and does not

normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic functions. For example, when a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called "distress" or "allostatic loading" (McEwen and Wingfield, 2003). This pathological state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

According to Moberg (2000), in the case of many stressors, an animal's first and sometimes most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical "fight or flight" response, which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with "stress." These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine systems or sympathetic nervous systems; the system that has received the most study has been the hypothalamus-pituitary-adrenal (HPA) system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine functions that are affected by stress, including immune competence, reproduction, metabolism, and behavior, are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier and Rivest, 1991),

altered metabolism (Elasser *et al.*, 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance (Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.* (2004)) have been equated with stress for many years.

Marine mammals naturally experience stressors within their environment and as part of their life histories. Changing weather and ocean conditions, exposure to disease and naturally occurring toxins, lack of prey availability, and interactions with predators all contribute to the stress a marine mammal experiences (Atkinson *et al.*, 2015). Breeding cycles, periods of fasting, social interactions with members of the same species, and molting (for pinnipeds) are also stressors, although they are natural components of an animal's life history. Anthropogenic activities have the potential to provide additional stressors beyond those that occur naturally (*e.g.*, fishery interactions, pollution, tourism, ocean noise) (Fair *et al.*, 2014; Meissner *et al.*, 2015; Rolland *et al.*, 2012).

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005; Reneerkens *et al.*, 2002; Thompson and Hamer, 2000). However, it should be noted that our understanding of the functions of various stress hormones (*e.g.*, cortisol), is based largely upon observations of the stress response in terrestrial mammals. Atkinson *et al.*, (2015) note that the endocrine response of marine mammals to stress may not be the same as that of terrestrial mammals because of the selective pressures marine mammals faced during their evolution in an ocean environment. For example, due to the necessity of breath-holding while diving and foraging at depth, the physiological role of epinephrine and norepinephrine (the catecholamines) in marine mammals might be different than in other mammals. Relatively little information exists on the linkage between anthropogenic sound exposure and stress in marine mammals, and even less information exists on the ultimate consequences of sound-induced stress responses (either acute or chronic). Most studies to date have focused on acute responses to sound either by measuring catecholamines, a neurohormone, or

heart rate as a proxy for an acute stress response.

The ability to make predictions from stress hormones about impacts on individuals and populations exposed to various forms of natural and anthropogenic stressors relies on understanding the linkages between changes in stress hormones and resulting physiological impacts. Currently, the sound characteristics that correlate with specific stress responses in marine mammals are poorly understood, as are the ultimate consequences of these changes. Several research efforts have improved the understanding of, and the ability to predict, how stressors ultimately affect marine mammal populations (e.g., King *et al.*, 2015; New *et al.*, 2013a; Pirotta *et al.*, 2015a; Pirotta *et al.*, 2022b). This includes determining how and to what degree various types of anthropogenic sound cause stress in marine mammals and understanding what factors may mitigate those physiological stress responses. Factors potentially affecting an animal's response to a stressor include life history, sex, age, reproductive status, overall physiological and behavioral adaptability, and whether they are naïve or experienced with the sound (e.g., prior experience with a stressor may result in a reduced response due to habituation) (Finneran and Branstetter, 2013; St. Aubin and Dierauf, 2001). Because there are many unknowns regarding the occurrence of acoustically induced stress responses in marine mammals, any physiological response (e.g., hearing loss or injury) or significant behavioral response is assumed to be associated with a stress response.

Non-impulsive sources of sound can cause direct physiological effects including noise-induced loss of hearing sensitivity (or "threshold shift") or other auditory injury, nitrogen decompression, acoustically-induced bubble growth, and injury due to sound-induced acoustic resonance. Separately, an animal's behavioral response to an acoustic exposure might lead to physiological effects that might ultimately lead to injury or death, which is discussed later in the *Stranding and Mortality* section.

Heart Rate Response

Several experimental studies have measured the heart rate response of a variety of marine mammals. For example, Miksis *et al.* (2001) observed increases in heart rates of captive bottlenose dolphins to which known calls of other dolphins were played, although no increase in heart rate was

observed when background tank noise was played back. However, it cannot be determined whether the increase in heart rate was due to stress or social factors, such as expectation of an encounter with a known conspecific. Similarly, a young captive beluga's heart rate increased during exposure to noise, with increases dependent upon the frequency band of noise and duration of exposure, and with a sharp decrease to normal or below normal levels upon cessation of the exposure (Lyamin *et al.*, 2011). Spectral analysis of heart rate variability corroborated direct measures of heart rate (Bakhchina *et al.*, 2017). This response might have been in part due to the conditions during testing, the young age of the animal, and the novelty of the exposure. A year later the exposure was repeated at a slightly higher received level and there was no heart rate response, indicating the beluga whale had potentially habituated to the noise exposure.

Kvadsheim *et al.* (2010a) measured the heart rate of captive hooded seals during exposure to sonar signals and found an increase in the heart rate of the seals during exposure periods versus control periods when the animals were at the surface. When the animals dove, the normal dive-related heart rate decrease was not impacted by the sonar exposure. Similarly, Thompson *et al.* (1998) observed a rapid, short-lived decrease in heart rates in wild harbor and grey seals exposed to seismic air guns (cited in Gordon *et al.* (2003)).

Two captive harbor porpoises showed significant bradycardia (reduced heart rate), below that which occurs with diving, when they were exposed to pinger-like sounds with frequencies between 100–140 kHz (Teilmann *et al.*, 2006). The bradycardia was found only in the early noise exposures and the porpoises acclimated quickly across successive noise exposures. Elmegaard *et al.* (2021) also found that initial exposures to sonar sweeps produced bradycardia but did not elicit a startle response in captive harbor porpoises. As with Teilmann *et al.* (2006), the cardiac response disappeared over several repeat exposures suggesting rapid acclimation to the noise. In the same animals, 40-kHz noise pulses induced startle responses but without a change in heart rate. Bakkeren *et al.* (2023) found no change in the heart rate of a harbor porpoise during exposure to masking noise ($\frac{1}{3}$ octave band noise, centered frequency of 125 kHz, maximum received level of 125 dB re 1 μ Pa) during an echolocation task but showed significant bradycardia while blindfolded for the same task. The authors attributed the change in heart

rate to sensory deprivation, although no strong conclusions about acoustic masking could be made since the animal was still able to perform the echolocation task in the presence of the masking noise. Williams *et al.* (2022) observed periods of increased heart rate variability in narwhals during seismic air gun impulse exposure, but profound bradycardia was not noted. Conversely, Williams *et al.* (2017) found that a profound bradycardia persisted in narwhals, even though exercise effort increased dramatically as part of their escape response following release from capture and handling.

Limited evidence across several different species suggests that increased heart rate might occur as part of the acute stress response of marine mammals that are at the surface. However, the decreased heart rate typical of diving marine mammals can be enhanced in response to an acute stressor, suggesting that the context of the exposure is critical to understanding the cardiac response. Furthermore, in instances where a cardiac response was noted, there appears to be rapid habituation when repeat exposures occur. Additional research is required to understand the interaction of dive bradycardia, noise-induced cardiac responses, and the role of habituation in marine mammals.

Stress Hormone and Immune Response

What is known about the function of the various stress hormones is based largely upon observations of the stress response in terrestrial mammals. The endocrine response of marine mammals to stress may not be the same as that of terrestrial mammals because of the selective pressures marine mammals faced during their evolution in an ocean environment (Atkinson *et al.*, 2015). For example, due to the necessity of breath-holding while diving and foraging at depth, the physiological role of epinephrine and norepinephrine (the catecholamines) might be different in marine versus other mammals.

Catecholamines increase during breath-hold diving in seals, co-occurring with a reduction in heart rate, peripheral vasoconstriction (*i.e.*, constriction of blood vessels), and an increased reliance on anaerobic metabolism during extended dives (Hance *et al.*, 1982; Hochachka *et al.*, 1995; Hurford *et al.*, 1996); the catecholamine increase is not associated with increased heart rate, glycemic release, and increased oxygen consumption typical of terrestrial mammals. Captive belugas demonstrated no catecholamine response to the playback of oil drilling

sounds (Thomas *et al.*, 1990b) but showed a small but statistically significant increase in catecholamines following exposure to impulsive sounds produced from a seismic water gun (Romano *et al.*, 2004). A captive bottlenose dolphin exposed to the same sounds did not demonstrate a catecholamine response but did demonstrate a statistically significant elevation in aldosterone (Romano *et al.*, 2004); however, the increase was within the normal daily variation observed in this species (St. Aubin *et al.*, 1996) and was likely of little biological significance. Aldosterone has been speculated to not only contribute to electrolyte balance, but possibly also the maintenance of blood pressure during periods of vasoconstriction (Houser *et al.*, 2011). In marine mammals, aldosterone is thought to play a role in mediating stress (St. Aubin and Dierauf, 2001; St. Aubin and Geraci, 1989).

Yang *et al.* (2021) measured cortisol concentrations in two captive bottlenose dolphins and found significantly higher concentrations after exposure to 140 dB re 1 μ Pa impulsive noise playbacks. Two out of six tested indicators of immune system function underwent acoustic dose-dependent changes, suggesting that repeated exposures or sustained stress response to impulsive sounds may increase an affected individual's susceptibility to pathogens. Unfortunately, absolute values of cortisol were not provided, and it is not possible from the study to tell if cortisol rose to problematic levels (*e.g.*, see normal variation and changes due to handling in Houser *et al.* (2021) and Champagne *et al.* (2018)). Exposing dolphins to a different acoustic stressor yielded contrasting results. Houser *et al.* (2020) measured cortisol and epinephrine obtained from 30 captive bottlenose dolphins exposed to simulated Navy MFAS and found no correlation between SPL and stress hormone levels, even though sound exposures were as high as 185 dB re 1 μ Pa. In the same experiment (Houser *et al.*, 2013b), behavioral responses were shown to increase in severity with increasing received SPLs. These results suggest that behavioral responses to sonar signals are not necessarily indicative of a hormonal stress response.

Whereas a limited amount of work has addressed the potential for acute sound exposures to produce a stress response, almost nothing is known about how chronic exposure to acoustic stressors affects stress hormones in marine mammals, particularly as it relates to survival or reproduction. In what is probably the only study of

chronic noise exposure in marine mammals associating changes in a stress hormone with changes in anthropogenic noise, Rolland *et al.* (2012) compared the levels of cortisol metabolites in NARW feces collected before and after September 11, 2001. Following the events of September 11, 2001, shipping was significantly reduced in the region where fecal collections were made, and regional ocean background noise declined. Fecal cortisol metabolites significantly decreased during the period of reduced ship traffic and ocean noise (Rolland *et al.*, 2012). Rolland *et al.* (2017) also compared acute (death by vessel strike) to chronic (entanglement or live stranding) stressors in NARW and found that whales subject to chronic stressors had higher levels of glucocorticoid stress hormones (cortisol and corticosterone) than either healthy whales or those killed by ships. It was presumed that whales subjected to acute stress may have died too quickly for increases in fecal glucocorticoids to be detected.

Considerably more work has been conducted in an attempt to determine the potential effect of vessel disturbance on smaller cetaceans, particularly killer whales (Bain, 2002; Erbe, 2002; Lusseau, 2006; Noren *et al.*, 2009; Pirota *et al.*, 2015b; Read *et al.*, 2014; Rolland *et al.*, 2012; Williams *et al.*, 2009; Williams *et al.*, 2014a; Williams *et al.*, 2014b; Williams *et al.*, 2006b). Most of these efforts focused primarily on estimates of metabolic costs associated with altered behavior or inferred consequences of boat presence and noise but did not directly measure stress hormones. However, Ayres *et al.* (2012) investigated Southern Resident killer whale fecal thyroid hormone and cortisol metabolites to assess two potential threats to the species' recovery: lack of prey (salmon) and impacts from exposure to the physical presence of vessel traffic (but without measuring vessel traffic noise). Ayres *et al.* (2012) concluded from these stress hormone measures that the lack of prey overshadowed any population-level physiological impacts on Southern Resident killer whales due to vessel traffic. Lemos *et al.* (2022) investigated the potential for vessel traffic to affect gray whales. By assessing gray whale fecal cortisol metabolites across years in which vessel traffic was variable, Lemos *et al.* (2022) found a direct relationship between the presence/density of vessel traffic and fecal cortisol metabolite levels. Unfortunately, no direct noise exposure measurements were made on any individual making it impossible to tell if other natural and anthropogenic

factors could also be related to the results. Collectively, these studies indicate the difficulty in determining which factors primarily influence the secretion of stress hormones, including the separate and additive effects of vessel presence and vessel noise. While vessel presence could contribute to the variation in fecal cortisol metabolites in NARWs and gray whales, there are other potential influences on fecal hormone metabolites, so it is difficult to establish a direct link between ocean noise and fecal hormone metabolites.

Non-Auditory Injury

Non-auditory injury, or direct injury, is considered unlikely to occur in the context of the Navy's proposed activities. Here, we discuss less direct non-auditory injury impacts, including acoustically induced bubble formation, and injury from sonar-induced acoustic resonance. Neither the Navy, nor NMFS expects physical or non-auditory injury or mortality to any of the marine mammal species in the Study Area due to the proposed activities.

One theoretical cause of injury to marine mammals is rectified diffusion (Crum and Mao, 1996), the process of increasing the size of a bubble by exposing it to a sound field. This process could be facilitated if the environment in which the ensonified bubbles exist is supersaturated with gas. Repetitive diving by marine mammals can cause the blood and some tissues to accumulate gas to a greater degree than is supported by the surrounding environmental pressure (Ridgway and Howard, 1979). The deeper and longer dives of some marine mammals (for example, beaked whales) are theoretically predicted to induce greater supersaturation (Houser *et al.*, 2001b). If rectified diffusion were possible in marine mammals exposed to high-level sound, conditions of tissue supersaturation could theoretically speed the rate and increase the size of bubble growth. Subsequent effects due to tissue trauma and emboli would presumably mirror those observed in humans suffering from decompression sickness. Acoustically-induced (or mediated) bubble growth and other pressure-related physiological impacts are addressed below but are not expected to result from the Navy's proposed activities.

It is unlikely that the short duration (in combination with the source levels) of sonar pings would be long enough to drive bubble growth to any substantial size, if such a phenomenon occurs. However, an alternative but related hypothesis has also been suggested: stable bubbles could be destabilized by

high-level sound exposures such that bubble growth then occurs through static diffusion of gas out of the tissues. In such a scenario the marine mammal would need to be in a gas-supersaturated state for a long enough period of time for bubbles to become of a problematic size. Recent research with ex vivo supersaturated bovine tissues suggested that, for a 37 kHz signal, a sound exposure of approximately 215 dB re 1 μ Pa would be required before microbubbles became destabilized and grew (Crum *et al.*, 2005). Assuming spherical spreading loss and a nominal sonar source level of 235 dB re 1 μ Pa at 1 m, a whale would need to be within 10 m of the sonar dome to be exposed to such sound levels. Furthermore, tissues in the study were supersaturated by exposing them to pressures of 400–700 kilopascals for periods of hours and then releasing them to ambient pressures. Assuming the equilibration of gases with the tissues occurred when the tissues were exposed to the high pressures, levels of supersaturation in the tissues could have been as high as 400–700 percent. These levels of tissue supersaturation are substantially higher than model predictions for marine mammals (Fahlman *et al.*, 2009; Fahlman *et al.*, 2014; Houser *et al.*, 2001; Saunders *et al.*, 2008). It is improbable that this mechanism is responsible for stranding events or traumas associated with beaked whale strandings because both the degree of supersaturation and exposure levels observed to cause microbubble destabilization are unlikely to occur, either alone or in concert.

Yet another hypothesis has speculated that rapid ascent to the surface following exposure to a startling sound might produce tissue gas saturation sufficient for the evolution of nitrogen bubbles (*i.e.*, decompression sickness) (Jepson *et al.*, 2003; Fernandez *et al.*, 2005). In this scenario, the rate of ascent would need to be sufficiently rapid to compromise behavioral or physiological protections against nitrogen bubble formation. Alternatively, Tyack *et al.* (2006) studied the deep diving behavior of beaked whales and concluded that: “Using current models of breath-hold diving, we infer that their natural diving behavior is inconsistent with known problems of acute nitrogen supersaturation and embolism.” Collectively, these hypotheses can be referred to as “hypotheses of acoustically mediated bubble growth.”

Although theoretical predictions suggest the possibility for acoustically mediated bubble growth, there is considerable disagreement among scientists as to its likelihood (Piantadosi

and Thalmann, 2004; Evans and Miller, 2003; Cox *et al.*, 2006; Rommel *et al.*, 2006). Crum and Mao (1996) hypothesized that received levels would have to exceed 190 dB in order for there to be the possibility of significant bubble growth due to supersaturation of gases in the blood (*i.e.*, rectified diffusion). Work conducted by Crum *et al.* (2005) demonstrated the possibility of rectified diffusion for short duration signals, but at SELs and tissue saturation levels that are highly improbable to occur in diving marine mammals. To date, energy levels predicted to cause in vivo bubble formation within diving cetaceans have not been evaluated (NOAA, 2002b). Jepson *et al.* (2003, 2005) and Fernandez *et al.* (2004, 2005) concluded that in vivo bubble formation, which may be exacerbated by deep, long-duration, repetitive dives may explain why beaked whales appear to be relatively vulnerable to MFAS/HFAS exposures. It has also been argued that traumas from some beaked whale strandings are consistent with gas emboli and bubble-induced tissue separations (Jepson *et al.*, 2003); however, there is no conclusive evidence of this (Rommel *et al.*, 2006). Based on examination of sonar-associated strandings, Bernaldo de Quiros *et al.* (2019) list diagnostic features, the presence of all of which suggest gas and fat embolic syndrome for beaked whales stranded in association with sonar exposure.

As described in additional detail in appendix D the 2025 SURTASS Draft SEIS/OEIS, marine mammals generally are thought to deal with nitrogen loads in their blood and other tissues, caused by gas exchange from the lungs under conditions of high ambient pressure during diving, through anatomical, behavioral, and physiological adaptations (Hooker *et al.*, 2012). Although not a direct injury, variations in marine mammal diving behavior or avoidance responses have been hypothesized to result in nitrogen off-gassing in super-saturated tissues, possibly to the point of deleterious vascular and tissue bubble formation (Hooker *et al.*, 2012; Jepson *et al.*, 2003; Saunders *et al.*, 2008) with resulting symptoms similar to decompression sickness; however, the process is still not well understood.

In 2009, Hooker *et al.* tested two mathematical models to predict blood and tissue tension N₂ (P_{N₂}) using field data from three beaked whale species: northern bottlenose whales, goose-beaked whales, and Blainville's beaked whales. The researchers aimed to determine if physiology (body mass, diving lung volume, and dive response)

or dive behavior (dive depth and duration, changes in ascent rate, and diel behavior) would lead to differences in P_{N₂} levels and thereby decompression sickness risk between species. In their study, they compared results for previously published time depth recorder data (Hooker and Baird, 1999; Baird *et al.*, 2006, 2008) from goose-beaked whale, Blainville's beaked whale, and northern bottlenose whale. They reported that diving lung volume and extent of the dive response had a large effect on end-dive P_{N₂}. Also, results showed that dive profiles had a larger influence on end-dive P_{N₂} than body mass differences between species. Despite diel changes (*i.e.*, variation that occurs regularly every day or most days) in dive behavior, P_{N₂} levels showed no consistent trend. Model output suggested that all three species live with tissue P_{N₂} levels that would cause a significant proportion of decompression sickness cases in terrestrial mammals. The authors concluded that the dive behavior of goose-beaked whale was different from both Blainville's beaked whale and northern bottlenose whale and resulted in higher predicted tissue and blood N₂ levels (Hooker *et al.*, 2009). They also suggested that the prevalence of goose-beaked whales stranding after naval sonar exercises could be explained by either a higher abundance of this species in the affected areas or by possible species differences in behavior and/or physiology related to MF active sonar (Hooker *et al.*, 2009).

Bernaldo de Quiros *et al.* (2012) showed that, among stranded whales, deep diving species of whales had higher abundances of gas bubbles compared to shallow diving species. Kvadsheim *et al.* (2012) estimated blood and tissue P_{N₂} levels in species representing shallow, intermediate, and deep diving cetaceans following behavioral responses to sonar and their comparisons found that deep diving species had higher end-dive blood and tissue N₂ levels, indicating a higher risk of developing gas bubble emboli compared with shallow diving species. Fahlmann *et al.* (2014) evaluated dive data recorded from sperm, killer, long-finned pilot, Blainville's, and goose-beaked whales before and during exposure to low-frequency (1–2 kHz), as defined by the authors, and mid-frequency (2–7 kHz) active sonar in an attempt to determine if either differences in dive behavior or physiological responses to sonar are plausible risk factors for bubble formation. The authors suggested that CO₂ may initiate bubble formation and growth, while elevated levels of N₂ may

be important for continued bubble growth. The authors also suggest that if CO₂ plays an important role in bubble formation, a cetacean escaping a sound source may experience increased metabolic rate, CO₂ production, and alteration in cardiac output, which could increase risk of gas bubble emboli. However, as discussed in Kvadsheim *et al.* (2012), the actual observed behavioral responses to sonar from the species in their study (sperm, killer, long-finned pilot, Blainville's beaked, and goose-beaked whales) did not imply any significantly increased risk of decompression sickness due to high levels of N₂. Therefore, further information is needed to understand the relationship between exposure to stimuli, behavioral response (discussed in more detail below), elevated N₂ levels, and gas bubble emboli in marine mammals. The hypotheses for gas bubble formation related to beaked whale strandings is that beaked whales potentially have strong avoidance responses to MFAS because they sound similar to their main predator, the killer whale (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007; Baird *et al.*, 2008; Hooker *et al.*, 2009). Further investigation is needed to assess the potential validity of these hypotheses.

To summarize, while there are several hypotheses, there is little data directly connecting intense, anthropogenic underwater sounds with non-auditory physical effects in marine mammals. The available data do not support identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in these ways. In addition, such effects, if they occur at all, would be expected to be limited to situations where marine mammals were exposed to high powered sounds at very close range over a prolonged period of time, which is not expected to occur based on the speed of the vessels operating sonar in combination with the speed and behavior of marine mammals in the vicinity of sonar.

An object exposed to its resonant frequency will tend to amplify its vibration at that frequency, a phenomenon called acoustic resonance. Acoustic resonance has been proposed as a potential mechanism by which a sonar or sources with similar operating characteristics could damage tissues of marine mammals. In 2002, NMFS convened a panel of government and private scientists to investigate the potential for acoustic resonance to occur in marine mammals (NOAA, 2002).

They modeled and evaluated the likelihood that Navy MFAS (2–10 kHz) caused resonance effects in beaked whales that eventually led to their stranding. The workshop participants concluded that resonance in air-filled structures was not likely to have played a primary role in the Bahamas stranding in 2000. They listed several reasons supporting this finding including (among others): (1) tissue displacements at resonance are estimated to be too small to cause tissue damage; (2) tissue-lined air spaces most susceptible to resonance are too large in marine mammals to have resonant frequencies in the ranges used by MFAS or LFA sonar; (3) lung resonant frequencies increase with depth, and tissue displacements decrease with depth so if resonance is more likely to be caused at depth it is also less likely to have an affect there; and (4) lung tissue damage has not been observed in any mass, multi-species stranding of beaked whales. The frequency at which resonance was predicted to occur in the animals' lungs was 50 Hz, well below the frequencies used by the MFAS systems associated with the Bahamas event. The workshop participants focused on the March 2000 stranding of beaked whales in the Bahamas as high-quality data were available, but the workshop report notes that the results apply to other sonar-related stranding events. For the reasons given by the 2002 workshop participants, we do not anticipate injury due to sonar-induced acoustic resonance from the Navy's proposed activity.

Further Potential Effects of Behavioral Disturbance on Marine Mammal Fitness

The different ways in which marine mammals respond to sound are sometimes indicators of the ultimate effect that exposure to a given stimulus will have on the well-being (survival, reproduction, *etc.*) of an animal. The long-term consequences of disturbance, hearing loss, chronic masking, and acute or chronic physiological stress are difficult to predict because of the different factors experienced by individual animals, such as context of stressor exposure, underlying health conditions, and other environmental or anthropogenic stressors. Linking these non-lethal effects on individuals to changes in population growth rates requires long-term data, which is lacking for many populations. We summarize several studies below, but there are few quantitative marine mammal data relating the exposure of marine mammals to sound to effects on reproduction or survival, though data exists for terrestrial species to which we

can draw comparisons for marine mammals. Several authors have reported that disturbance stimuli may cause animals to abandon nesting and foraging sites (Sutherland and Crockford, 1993), may cause animals to increase their activity levels and suffer premature deaths or reduced reproductive success when their energy expenditures exceed their energy budgets (Daan *et al.*, 1996; Feare, 1976; Mullner *et al.*, 2004), or may cause animals to experience higher predation rates when they adopt risk-prone foraging or migratory strategies (Frid and Dill, 2002). Each of these studies addressed the consequences of animals shifting from one behavioral state (*e.g.*, resting or foraging) to another behavioral state (*e.g.*, avoidance or escape behavior) because of human disturbance or disturbance stimuli.

Lusseau and Bejder (2007) present data from three long-term studies illustrating the connections between disturbance from whale-watching boats and population-level effects in cetaceans. In Shark Bay Australia, the abundance of bottlenose dolphins was compared within adjacent control and tourism sites over three consecutive 4.5-year periods of increasing tourism levels. Between the second and third time periods, in which tourism doubled, dolphin abundance decreased by 15 percent in the tourism area and did not change significantly in the control area. In Fiordland, New Zealand, two populations (Milford and Doubtful Sounds) of bottlenose dolphins with tourism levels that differed by a factor of seven were observed and significant increases in travelling time and decreases in resting time were documented for both. Consistent short-term avoidance strategies were observed in response to tour boats until a threshold of disturbance was reached (average 68 minutes between interactions), after which the response switched to a longer-term habitat displacement strategy. For one population, tourism occurred only in a part of the home range. However, tourism occurred throughout the home range of the Doubtful Sound population and once boat traffic increased beyond the 68-minute threshold (resulting in abandonment of their home range/preferred habitat), reproductive success drastically decreased (*i.e.*, increased stillbirths) and abundance decreased significantly (from 67 to 56 individuals in a short period). Last, in a study of Northern Resident killer whales off Vancouver Island, exposure to boat traffic was shown to reduce foraging opportunities and increase traveling

time. A simple bioenergetics model was applied to show that the reduced foraging opportunities equated to a decreased energy intake of 18 percent, while the increased traveling incurred an increased energy output of 3–4 percent, which suggests that a management action based on avoiding interference with foraging might be particularly effective.

An important variable to consider is duration of disturbance. Severity scales used to assess behavioral responses of marine mammals to acute sound exposures are not appropriate to apply to sustained or chronic exposures, which requires considering the health of a population over time rather than a focus on immediate impacts to individuals (Southall *et al.*, 2021). For example, short-term costs experienced over the course of a week by an otherwise healthy individual may be recouped over time after exposure to the stressor ends. These short-term costs would be unlikely to result in long-term consequences to that individual or to that individual's population. Comparatively, long-term costs accumulated by otherwise healthy individuals over an entire season, year, or throughout a life stage (*e.g.*, pup, juvenile, adult) would be less easily recouped and more likely to result in long-term consequences to that individual or population.

Marine mammals exposed to frequent or intense anthropogenic activities may leave the area, habituate to the activity, or tolerate the disturbance and remain in the area (Wartzok *et al.*, 2003). Highly resident or localized populations may also stay in an area of disturbance because the cost of displacement is higher than the cost of remaining in the area (Forney *et al.*, 2017). As such, an apparent lack of response (*e.g.*, no displacement or avoidance of a sound source) does not necessarily indicate there is no cost to the individual or population, as some resources or habitats may be of such high value that animals may choose to stay, even when experiencing the consequences of stress, masking, or hearing loss (Forney *et al.*, 2017).

Longer term displacement can lead to changes in abundance or distribution patterns of the species in the affected region (Bejder *et al.*, 2006b; Blackwell *et al.*, 2004; Teilmann *et al.*, 2006). For example, gray whales in Baja California, Mexico, abandoned a historical breeding lagoon in the mid-1960s due to an increase in dredging and commercial shipping operations, and only repopulated the lagoon after shipping activities had ceased for several years (Bryant *et al.*, 1984). Mysticetes in the

northeast tended to adjust to vessel traffic over several years, trending towards more neutral behavioral responses to passing vessels (Watkins, 1986), indicating that some animals may habituate to high levels of human activity. A study on bottlenose dolphin responses to vessel approaches found that lesser responses in populations of dolphins regularly subjected to high levels of vessel traffic could be a sign of habituation, or it could be that the more sensitive animals in this population previously abandoned the area of higher human activity (Bejder *et al.*, 2006a).

Population characteristics (*e.g.*, whether a population is open or closed to immigration and emigration) can influence sensitivity to disturbance as well; closed populations could not withstand a higher probability of disturbance compared to open populations with no limitation on food (New *et al.*, 2020). Predicting population trends or long-term displacement patterns due to anthropogenic disturbance is challenging due to limited information and survey data for many species over sufficient spatiotemporal scales, as well as a full understanding of how other factors, such as oceanographic oscillations, affect marine mammal presence (Moore and Barlow, 2013; Barlow, 2016; Moore and Barlow, 2017).

Population models are necessary to understand and link short-term effects to individuals from disturbance (anthropogenic impacts or environmental change) to long-term population consequences. Population models require inputs for the population size and changes in vital rates of the population (*e.g.*, the mean values for survival age, lifetime reproductive success, recruitment of new individuals into the population), to predict changes in population dynamics (*e.g.*, population growth rate). These efforts often rely on bioenergetic models, or energy budget models, which analyze energy intake from food and energy costs for life functions, such as maintenance, growth, and reproduction, either at the individual or population level (Pirota, 2022), and model sensitivity analyses have identified the most consequential parameters, including prey characteristics, feeding processes, energy expenditure, body size, energy storage, and lactation capability (Pirota, 2022). However, there is a high level of uncertainty around many parameters in these models (Hütt *et al.*, 2023).

The U.S. National Research Council (NRC) committee on Characterizing Biologically Significant Marine Mammal Behavior developed an initial

conceptual model to link acoustic disturbance to population effects and inform data and research needs (NRC, 2005). This Population Consequences of Acoustic Disturbance, or PCAD, conceptual model linked the parameters of sound exposure, behavior change, life function immediately affected, vital rates, and population effects. In its report, the committee found that the relationships between vital rates and population effects were relatively well understood, but that the relationships between the other components of the model were not well-known or easily observed.

Following the PCAD framework (NRC, 2005), an Office of Naval Research (ONR) working group developed the Population Consequences of Disturbance (PCoD), outlining an updated conceptual model of the relationships linking disturbance to changes in behavior and physiology, health, vital rates, and population dynamics. The PCoD model considers all types of disturbance, not solely anthropogenic or acoustic, and incorporates physiological changes, such as stress or injury, along with behavioral changes as a direct result of disturbance (National Academies of Sciences Engineering and Medicine, 2017). In this framework, behavioral and physiological changes can have direct (acute) effects on vital rates, such as when changes in habitat use or increased stress levels raise the probability of mother-calf separation or predation; they can have indirect and long-term (chronic) effects on vital rates, such as when changes in time/energy budgets or increased disease susceptibility affect health, which then affects vital rates; or they can have no effect to vital rates (New *et al.*, 2014; Pirota *et al.*, 2018a). In addition to outlining this general framework and compiling the relevant literature that supports it, the authors chose four example species for which extensive long-term monitoring data exist (southern elephant seals, NARW, *Ziphiidae* beaked whales, and bottlenose dolphins) and developed state-space energetic models that can be used to forecast longer-term, population-level impacts from behavioral changes. While these models cannot yet be applied broadly to project-specific risk assessments for the majority of species, as well as requiring significant resources and time to conduct (more than is typically available to support regulatory compliance for one project), they are a critical first step towards being able to quantify the likelihood of a population

level effect. Since New *et al.* (2014), several publications have described models developed to examine the long-term effects of environmental or anthropogenic disturbance of foraging on various life stages of selected species (sperm whale, Farmer *et al.* (2018); California sea lion, McHuron *et al.* (2018); and blue whale, Pirota, *et al.* (2018a)).

The PCoD model identifies the types of data that would be needed to assess population-level impacts. These data are lacking for many marine mammal species (Booth *et al.*, 2020). Southall *et al.* (2021) states that future modeling and population simulation studies can help determine population-wide long-term consequences and impact analysis. However, the method to do so is still developing, as there are gaps in the literature, possible sampling biases, and results are rarely ground-truthed, with a few exceptions (Booth *et al.*, 2022; Schwarz *et al.*, 2022). Nowacek *et al.* (2016) reviewed technologies such as passive acoustic monitoring, tagging, and the use of unmanned aerial vehicles which can improve scientists' abilities to study these model inputs and link behavioral changes to individual life functions and ultimately population-level effects. Relevant data needed for improving analyses of population-level consequences resulting from disturbances will continue to be collected during the 7-year period of the LOAs through projects funded by the Navy's Marine Species Monitoring Program. Multiple case studies across marine mammal taxonomic groups have been conducted following the PCoD framework. From these studies, Keen *et al.* (2021) identified themes and contextual factors relevant to assessing impacts to populations due to disturbance, which have been considered in the context of the impacts of the Navy's activities.

A population's movement ecology determines the potential for spatiotemporal overlap with a disturbance. Resident populations or populations that rely on spatially limited habitats for critical life functions (*i.e.*, foraging, breeding) would be at greater risk of repeated or chronic exposure to disturbances than populations that are wide-ranging relative to the footprint of a disturbance (Keen *et al.*, 2021). Even for the same species, differences in habitat use between populations can result in different potential for repeated exposure to individuals for a similar stressor (Costa *et al.*, 2016a). The location and radius of disturbance can impact how many animals are exposed and for how long (Costa *et al.*, 2016b). While some

models have shown the advantages of populations with larger ranges, namely the decreased chance of being exposed (Costa *et al.*, 2016b), it is important to consider that for some species, the energetic cost of a longer migration could make a population more sensitive to energy lost through disturbance (Villegas-Amtmann *et al.*, 2017). In addition to ranging patterns, a species' activity budgets and lunging rates can cause variability in their predicted cost of disturbance as well (Pirota *et al.*, 2021).

Bioenergetics frameworks that examine the impact of foraging disruption on body reserves of individual whales found that rates of daily foraging disruption can predict the number of days to terminal starvation for various life stages (Farmer *et al.*, 2018b). Similarly, when a population is displaced by a stressor, and has access to only areas of poor habitat quality (*i.e.*, low prey abundance) for relocation, bioenergetic models may be more likely to predict starvation, longer recovery times, or extinction (Hin *et al.*, 2023). There is some debate over the use of blubber thickness as a metric of cetacean energy stores and health, as marine mammals may not use their fat stores in a similar manner to terrestrial mammals (Deros *et al.*, 2020).

Resource limitation can impact marine mammal population growth rate regardless of additional anthropogenic disturbance. Stochastic Dynamic Programming models have been used to explore the impact declining prey species has on focal marine mammal predators (McHuron *et al.*, 2023a; McHuron *et al.*, 2023b). A Stochastic Dynamic Programming model determined that a decrease in walleye pollock (*Gadus chalcogrammus*) availability increased the time and distance northern fur seal mothers had to travel offshore, which negatively impacted pup growth rate and wean mass, despite attempts to compensate with longer recovery time on land (McHuron *et al.*, 2023b). Prey is an important factor in long-term consequence models for many species of marine mammals. In disturbance models that predict habitat displacement or otherwise reduced foraging opportunities, populations are being deprived of energy dense prey or "high quality" areas which can lead to long-term impacts on fecundity and survival (Czapanskiy *et al.*, 2021; Hin *et al.*, 2019; McHuron *et al.*, 2023a; New *et al.*, 2013b). Prey density limits the energy available for growth, reproduction, and survival. Some disturbance models indicate that the immediate decrease in a portion of the

population (*e.g.*, young lactating mothers) is not necessarily detrimental to a population, since as a result, prey availability increases and the population's overall improved body condition reduces the age at first calf (Hin *et al.*, 2021). The timing of a disturbance with seasonally available resources is also important. If a disturbance occurs during periods of low resource availability, the population-level consequences are greater and occur faster than if the disturbance occurs during periods when resource levels are high (Hin *et al.*, 2019). Further, when resources are not evenly distributed, populations with cautious strategies and knowledge of resource variation have an advantage (Pirota *et al.*, 2020).

Even when modeled alongside several anthropogenic sources of disturbance (*e.g.*, vessel strike, vessel noise, chemical contaminants, sonar), several species of marine mammals are most influenced by lack of prey (Czapanskiy *et al.*, 2021; Murray *et al.*, 2021). Some species like killer whales are especially sensitive to prey abundance due to their limited diet (Murray *et al.*, 2021). The short-term energetic cost of eleven species of cetaceans and mysticetes exposed to MFAS was influenced more by lost foraging opportunities than increased locomotor effort during avoidance (Czapanskiy *et al.*, 2021). Additionally, the model found that mysticetes incurred more energetic cost than odontocetes, even during mild behavioral responses to sonar. These results may be useful in the development of future Population Consequences of Multiple Stressors and PCoD models since they should seek to qualify cetacean health in a more ecologically relevant manner.

PCoD models have been used to assess the impacts of multiple and recurring stressors. A marine mammal population that is already subject to chronic stressors will likely be more vulnerable to acute disturbances. Models that have looked at populations of cetaceans who are exposed to multiple stressors over several years have found that even one major chronic stressor (*e.g.*, epizootic disease, oil spill) has severe impacts on population size. A layer of one or more stressor (*e.g.*, seismic surveys) in addition to a chronic stressor (*e.g.*, an oil spill) can yield devastating impacts on a population. These results may vary based on species and location, as one population may be more impacted by chronic shipping noise, while another population may not. However, just because a population does not appear to be impacted by one chronic stressor (*e.g.*, shipping noise),

does not mean they are not affected by others (e.g., disease) (Reed *et al.*, 2020). Recurring or chronic stressors can impact population abundance even when instances of disturbance are short and have minimal behavioral impact on an individual (Farmer *et al.*, 2018a; McHuron *et al.*, 2018b; Pirotta *et al.*, 2019). Some changes to response variables like pup recruitment (survival to age one) are not noticeable for several years, as the impacts on pup survival does not affect the population until those pups are mature but impacts to young animals will ultimately lead to population-wide declines. The severity of the repeated disturbance can also impact a population's long-term reproductive success. Scenarios with severe repeated disturbance (e.g., 95 percent probability of exposure, with 95 percent reduction in feeding efficiency) can severely reduce fecundity and calf survival, while a weaker disturbance (25 percent probability of exposure, with 25 percent reduction in feeding efficiency) had no population-wide effect on vital rates (Pirotta *et al.*, 2019).

Farmer *et al.* (2018a) modeled how an oil spill led to chronic declines in a sperm whale population over 10 years, and if models included even one more stressor (i.e., behavioral responses to air guns), the population declined even further. However, the amount of additional population decline due to acoustic disturbance depended on the way the dose-response of the noise levels were modeled. A single step-function led to higher impacts than a function with multiple steps and frequency weighting. In addition, the amount of impact from both disturbances was mediated when the metric in the model that described animal resilience was changed to increase resilience to disturbance (e.g., able to make up reserves through increased foraging).

Not all stressors have the same impact for all species and all locations. Another model analyzed the effect of a number of chronic disturbances on two bottlenose dolphin populations in Australia over 5 years (Reed *et al.*, 2020). Results indicated that disturbance from fisheries interactions and shipping noise had little overall impact on population abundances in either location, even in the most extreme impact scenarios modeled. At least in this area, other factors (e.g., epizootic scenarios) had the largest impact on population size and fecundity.

Recurring stressors can impact population abundance even when individual instances of disturbance are short and have minimal behavioral

impact on an individual. A model on California sea lions introduced a generalized disturbance at different times throughout the breeding cycle, with their behavior response being an increase in the duration of a foraging trip by the female (McHuron *et al.*, 2018b). Very short duration disturbances or responses led to little change, particularly if the disturbance was a single event, and changes in the timing of the event in the year had little effect. However, with even relatively short disturbances or mild responses, when a disturbance was modeled as recurring there were resulting reductions in population size and pup recruitment (survival to age one). Often, the effects weren't noticeable for several years, as the impacts on pup survival did not affect the population until those pups were mature.

Stranding and Mortality

The definition for a stranding under title IV of the MMPA is an event in the wild in which (A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance (see 16 U.S.C. 1421h(6)). This definition is useful for considering stranding events even when they occur beyond lands and waters under the jurisdiction of the United States.

Marine mammal strandings have been linked to a variety of causes, such as: (1) illness from exposure to infectious agents, biotoxins, or parasites; (2) starvation; (3) unusual oceanographic or weather events; or (4) anthropogenic causes including fishery interaction, vessel strike, entrapment, entrapment, sound exposure, or combinations of these stressors sustained concurrently or in series. Historically, the cause or causes of most strandings have remained unknown (e.g., Odell *et al.*, 1980), but the development of trained, professional stranding response networks and improved analyses have led to a greater understanding of marine mammal stranding causes (Simeone and Moore, 2018).

Numerous studies suggest that the physiology, behavior, habitat, social relationships, age, or condition of

cetaceans may cause them to strand or might predispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Bernaldo de Quiros *et al.*, 2019; Chroussos, 2000; Creel, 2005 Fair and Becker, 2000; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.*, 2004).

Historically, stranding reporting and response efforts have been inconsistent, although significant improvements have occurred over the last 25 years. Reporting forms for basic ("Level A") information, rehabilitation disposition, and human interaction have been standardized nationally are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/level-data-collection-marine-mammal-stranding-events>. However, data collected beyond basic information varies by region (and may vary from case to case) and are not standardized across the United States. Logistical conditions such as weather, time, location, and decomposition state may also affect the ability of the stranding network to thoroughly examine a specimen (Carretta *et al.*, 2023; Moore *et al.*, 2013). While the investigation of stranded animals provides insight into the types of threats marine mammal populations face, full investigations are possible and conducted only on a small fraction of the total number of strandings that occur, limiting our understanding of the causes of strandings (Carretta *et al.*, 2016a). Additionally, and due to the variability in effort and data collected, the ability to interpret long-term trends in stranded marine mammals is complicated.

In the United States from 2006 to 2022, there were 27,781 cetacean strandings and 79,572 pinniped strandings (107,353 total) (P. Onens, NMFS, *pers comm.*, 2024). Several mass strandings (strandings that involve two or more individuals of the same species, excluding a single mother-calf pair) that have occurred over the past two decades have been associated with anthropogenic activities that introduced sound into the marine environment such as naval operations and seismic surveys. An in-depth discussion of strandings can be found in the Navy's Technical Report on Marine Mammal Strandings Associated with U.S. Navy Sonar Activities (U.S. Navy Marine Mammal Program and Space and Naval

Warfare Systems Command Center Pacific, 2017b).

Worldwide, there have been several efforts to identify relationships between cetacean mass stranding events and military active sonar (Cox *et al.*, 2006; Hildebrand, 2004; Taylor *et al.*, 2004). D'Amico *et al.* (2009) reviewed beaked whale stranding data compiled primarily from the published literature, which provides an incomplete record of stranding events, as many are not written up for publication, along with unpublished information from some regions of the world.

Most of the stranding events reviewed by the International Whaling Commission involved beaked whales. A mass stranding of goose-beaked whales in the eastern Mediterranean Sea occurred in 1996 (Frantzis, 1998), and mass stranding events involving Gervais' beaked whales, Blainville's beaked whales, and goose-beaked whales occurred off the coast of the Canary Islands in the late 1980s (Simmonds and Lopez-Jurado, 1991). The stranding events that occurred in the Canary Islands and Kyparissiakos Gulf in the late 1990s and the Bahamas in 2000 have been the most intensively-studied mass stranding events and have been associated with naval maneuvers involving the use of tactical sonar. Other cetacean species with naval sonar implicated in stranding events include harbor porpoise (Norman *et al.*, 2004; Wright *et al.*, 2013) and common dolphin (Jepson *et al.*, 2013).

Strandings Associated With Active Sonar

Over the past 21 years, there have been 5 stranding events coincident with naval MFAS use in which exposure to sonar is believed to have been a contributing factor: (1) Greece (1996); (2) the Bahamas (2000); (3) Madeira (2000); (4) Canary Islands (2002); and (5) Spain (2006) (Cox *et al.*, 2006; Fernandez, 2006; U.S. Navy Marine Mammal Program and Space and Naval Warfare Systems Command Center Pacific, 2017). These 5 mass strandings have resulted in about 40 known cetacean deaths consisting mostly of beaked whales and with close linkages to MFAS activity. In these circumstances, exposure to non-impulsive acoustic energy was considered a potential indirect cause of death of the marine mammals (Cox *et al.*, 2006). Only one of these stranding events, the Bahamas (2000), was associated with exercises conducted by the U.S. Navy. Additionally, in 2004, during the RIMPAC exercises, between 150 and 200 usually pelagic melon-headed whales occupied the shallow waters of

Hanalei Bay, Kaua'i, Hawaii for over 28 hours. NMFS determined that MFAS was a plausible, if not likely, contributing factor in what may have been a confluence of events that led to the Hanalei Bay stranding. A number of other stranding events coincident with the operation of MFAS, including the death of beaked whales or other species (*i.e.*, minke whales, dwarf sperm whales, pilot whales), have been reported; however, the majority have not been investigated to the degree necessary to determine the cause of the stranding. Most recently, the Independent Scientific Review Panel investigating potential contributing factors to a 2008 mass stranding of melon-headed whales in Antsohihy, Madagascar released its final report suggesting that the stranding was likely initially triggered by an industry seismic survey (Southall *et al.*, 2013). This report suggests that the operation of a commercial high-powered 12 kHz multibeam echosounder during an industry seismic survey was a plausible and likely initial trigger that caused a large group of melon-headed whales to leave their typical habitat and then ultimately strand as a result of secondary factors such as malnourishment and dehydration. The report indicates that the risk of this particular convergence of factors and ultimate outcome is likely very low but recommends that the potential be considered in environmental planning. Because of the association between tactical MFAS use and a limited number of marine mammal strandings, the Navy and NMFS have been considering and addressing the potential for strandings in association with Navy activities for years. In addition to the proposed mitigation measures intended to more broadly minimize impacts to marine mammals, the Navy will abide by the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when dead, injured, or stranded marine mammals are detected in certain circumstances.

Potential for Stranding From LFA Sonar

Although the confluence of Navy MFAS with the other contributory factors noted in the 2001 NMFS/Navy joint report was identified as the cause of the 2000 Bahamas stranding event, the specific mechanisms that led to that stranding (or the others) are not well understood, and there is uncertainty regarding the ordering of effects that led to the stranding. It is unclear whether beaked whales were directly injured by sound (*e.g.*, acoustically mediated bubble growth, as addressed above) prior to stranding or whether a

behavioral response to sound occurred that ultimately caused the beaked whales to be injured and strand.

There is no empirical evidence of strandings of marine mammals associated with the employment of SURTASS LFA sonar since its use began in the early 2000s. Moreover, both the system acoustic characteristics and the operational parameters of SURTASS LFA sonar differ from MFAS. SURTASS LFA sonars use frequencies generally below 1,000 Hz with relatively long signals (pulses) on the order of 60 seconds, while MFAS use frequencies greater than 1,000 Hz with relatively short signals on the order of 1 second. SURTASS LFA sonars involve use of one slower-moving vessel operating far from shore, as opposed to the faster-moving, multi-vessel MFAS training scenarios operating in closer proximity to shore that have coincided with strandings.

Cox *et al.* (2006) provided a summary of common features shared by the stranding events related to MFAS in Greece (1996), Bahamas (2000), and Canary Islands (2002). These included deep water close to land (such as offshore canyons), presence of an acoustic waveguide (surface duct conditions), and periodic sequences of transient pulses (*i.e.*, rapid onset and decay times) generated at depths less than 10 m by sound sources moving at speeds of 2.6 m/second or more during sonar operations (D'Spain *et al.*, 2006). These features are not similar to SURTASS LFA sonar activities. First, the Navy will not test and train with SURTASS LFA sonar such that received levels are greater than 180 dB within 22 km of any coastline, ensuring that sound levels are at reduced levels at a sufficient distance from land. Second, when transmitting, the ship's typical speed is 7.4 km/hr, which is less than those found in Cox *et al.* (2006). Finally, the center of the vertical line array (source) is at a depth of approximately 121.9 m, reducing the sounds that are transmitted at depths above 10 m. Also, the LFA sonar signal is transmitted at depths well below 10 m. While there was an LF component in the Greek stranding in 1996, only MF components were present in the strandings in the Bahamas in 2000, Madeira in 2000, and the Canary Islands in 2002. The International Council for the Exploration of the Sea (ICES) in its "Report of the Ad-Hoc Group on the Impacts of Sonar on Cetaceans and Fish" raised the same issues as Cox *et al.* (2006), stating that the consistent association of MF sonar in the Bahamas, Madeira, and Canary Islands strandings suggest that it was the MF component,

not the LF component, in the NATO sonar that triggered the Greek stranding of 1996 (ICES, 2005). The ICES (2005) report concluded that no strandings, injury, or major behavioral change have been associated with the exclusive use of LF sonar.

From the commencement of SURTASS LFA sonar use in 2002 through the present, neither LFA sonar nor operation of the T-AGOS vessels has been associated with any known mass or individual strandings of marine mammals. In addition, the Navy's required monitoring reports indicate that there have been no apparent avoidance reactions observed.

Potential Effects of Vessel Strike

Vessel strikes of marine mammals can result in death or serious injury of the animal. Wounds resulting from vessel strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or an animal just below the surface could be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. Lethal interactions are typically associated with large whales, which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.*, the sperm whale; Jaquet and Whitehead, 1996; Watkins *et al.*, 1999). In addition, some baleen whales seem generally unresponsive to vessel sound, making them more susceptible to vessel strikes (Nowacek *et al.*, 2004). These species are primarily large, slow moving whales. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

Wounds resulting from vessel strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). Impact forces increase with speed as does the probability of a

strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011). An examination of all known vessel strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death or serious injury (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Jensen and Silber, 2003; Pace and Silber, 2005; Vanderlaan and Taggart, 2007). In assessing records in which vessel speed was known, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24 km/hr.

Jensen and Silber (2003) detailed 292 records of known or probable vessel strikes of all large whale species from 1975 to 2002. Of these, vessel speed at the time of collision was reported for 58 cases. Of these 58 cases, 39 (or 67 percent) resulted in serious injury or death (19 of those resulted in serious injury as determined by blood in the water, propeller gashes, or severed tailstock, and fractured skull, jaw, vertebrae, hemorrhaging, massive bruising or other injuries noted during necropsy; 20 resulted in death). Operating speeds of vessels that struck various species of large whales ranged from 3.7 to 94.5 km/hr. The majority (79 percent) of these strikes occurred at speeds of 24 km/hr or greater. The average speed that resulted in serious injury or death was 34.4 km/hr. Pace and Silber (2005) found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 18.5 to 25.9 km/hr and exceeded 90 percent at 31.5 km/hr. Higher speeds during strikes result in greater force of impact and also appear to increase the chance of severe injuries or death. While modeling studies have suggested that hydrodynamic forces pulling whales toward the vessel hull increase with increasing speed (Clyne, 1999; Knowlton *et al.*, 1995), this is inconsistent with Silber *et al.* (2010), which demonstrated that there is no such relationship (*i.e.*, hydrodynamic forces are independent of speed).

In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 15.9 and 27.8 km/hr. The chances of a

lethal injury decline from approximately 80 percent at 27.8 km/hr to approximately 20 percent at 15.9 km/hr. At speeds below 21.9 km/hr, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward 100 percent above 27.8 km/hr. Garrison *et al.* (2025) reviewed and updated available data on whale-vessel interactions in U.S. waters to determine the effects of vessel speed and size on lethality of strikes of large whales and found vessel size class had a significant effect on the probability of lethality. Decreasing vessel speeds reduced the likelihood of a lethal outcome for all vessel size classes modeled, with the strongest effect for vessels less than 108 m long. Notably, the probability that a strike by a very large (*i.e.*, in length) vessel will be lethal exceeded 0.80 at speeds greater than 9.26 km/hr (Garrison *et al.*, 2025). As described previously, T-AGOS vessels are 72–86 m long, have a catamaran-type split-hull shape, an enclosed propeller system, operate at a typical speed of 7.4 km/hr, and transit at a maximum speed of approximately 22.2 km/hr. Further, they operate at distances beyond 22 km from shore (where marine mammals are less dense) and outside of OBIAs where large whales are known to concentrate.

The Jensen and Silber (2003) report notes that the database represents a minimum number of strikes, because the vast majority probably goes undetected or unreported. In contrast, Navy vessels are likely to detect any strike that does occur because of the required personnel training and Lookouts (as described in the Proposed Mitigation Measures section), and they are required to report all vessel strikes involving marine mammals. The Navy has never reported any marine mammals being struck by SURTASS LFA sonar vessels (T-AGOS).

Between 2007 and 2009, the Navy developed and distributed additional training, mitigation, and reporting tools to Navy operators to improve marine mammal protection and to ensure compliance with permit requirements. In 2009, the Navy implemented Marine Species Awareness Training designed to improve effectiveness of visual observation for marine mammals and other marine resources. In subsequent years, the Navy issued refined policy guidance on vessel strikes in order to collect the most accurate and detailed data possible in response to a possible incident (also see the Notification and Reporting Plan for this proposed rule). In 2021, the Navy created a new SURTASS-specific Marine Species Awareness Training module, developed

by civilian marine biologists and approved by NMFS. This video-based training provides information on marine species sighting cues, visual observation tools and techniques for SURTASS vessels, and sighting notification procedures. It is designed as a complement to the U.S. Navy Lookout Training Handbook adapted to SURTASS vessel training and testing. The module is required for ship masters, bridge watchstanders, and lookout personnel. For over a decade, the Navy has implemented the Protective Measures Assessment Protocol (PMAP) software tool, which provides operators with notification of the required mitigation and a visual display of the planned training or testing activity location overlaid with relevant environmental data.

Marine Mammal Habitat

The proposed training and testing activities could potentially affect marine mammal habitat through the introduction of impacts to the prey species of marine mammals, acoustic habitat (sound in the water column), water quality, and biologically important habitat for marine mammals. Each of these potential effects was considered in the 2025 SURTASS Draft SEIS/OEIS and was determined not to have adverse effects on marine mammal habitat. Based on the information below and the supporting information included in the 2025 SURTASS Draft SEIS/OEIS, NMFS has determined that the proposed training and testing activities would not have adverse or long-term impacts on marine mammal habitat.

Effects on Prey

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (e.g., crustaceans, cephalopods, fishes, zooplankton). Marine mammal prey varies by species, season, and location and, for some species, is not well-documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fishes utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (Zelick *et al.*, 1999; Fay, 2009). The most likely effects on fishes exposed to loud, intermittent, low-frequency sounds are behavioral responses (*i.e.*, flight or avoidance). Short duration, impulsive sounds (such as impact pile driving or seismic air guns) can cause overt or subtle changes in fish behavior and local distribution (e.g., van der Knapp *et*

al., 2021; van der Knaap *et al.*, 2022; Jarriel *et al.*, 2025). The response of fishes to acoustic sources depends on the physiological state of the fish, past exposures, motivation (e.g., feeding, spawning, migration), and other environmental factors. Key impacts to fishes from exposure to underwater noise may include behavioral responses, hearing damage, barotrauma (*i.e.*, pressure-related injuries), and, in some cases, mortality. While it is clear that the behavioral responses of individual prey, such as displacement or other changes in distribution, can have direct impacts on the foraging success of marine mammals, the effects on marine mammals of individual prey that experience hearing damage, barotrauma, or mortality is less clear, though obviously population scale impacts that meaningfully reduce the amount of prey available could have more serious impacts.

Fishes, like other vertebrates, have a variety of different sensory systems to glean information from ocean around them (Astrup and Mohl, 1993; Astrup, 1999; Braun and Grande, 2008; Carroll *et al.*, 2017; Hawkins and Johnstone, 1978; Ladich and Popper, 2004; Ladich and Schulz-Mirbach, 2016; Mann, 2016; Nedwell *et al.*, 2004; Popper *et al.*, 2003; Popper *et al.*, 2005). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.*, 2008; Popper *et al.*, 2022), while terrestrial vertebrates generally detect only pressure. Most marine fishes primarily detect particle motion using the inner ear and lateral line system, while some fishes possess additional morphological adaptations or specializations that can enhance their sensitivity to sound pressure, such as a gas-filled swim bladder (Braun and Grande, 2008; Popper and Fay, 2011; Popper *et al.*, 2022).

Hearing capabilities vary considerably between different fish species with data available for only just over 100 species out of the 34,000 marine and freshwater fish species (Eschmeyer and Fong, 2016). In order to better understand acoustic impacts on fishes, fish hearing groups are defined by species that possess a similar continuum of anatomical features which result in varying degrees of hearing sensitivity (Popper and Hastings, 2009a; Popper *et al.*, 2022). There are four hearing groups defined for all fish species (modified by the Navy from Popper *et al.*, 2014) within this analysis and they include: (1) fishes without a swim bladder (e.g., flatfish, sharks, rays, *etc.*); (2) fishes

with a swim bladder not involved in hearing (e.g., salmon, cod, pollock, *etc.*); (3) fishes with a swim bladder involved in hearing (e.g., sardines, anchovy, herring, *etc.*); and (4) fishes with a swim bladder involved in hearing and high-frequency hearing (e.g., shad and menhaden). While hearing studies have not been done on sardines and northern anchovies, it would not be unexpected for them to possess hearing similarities to Pacific herring (up to 2–5 kHz) (Mann *et al.*, 2005). Currently, less data are available to estimate the range of best sensitivity for fishes without a swim bladder. Because most fish species can hear low-frequency sounds (Popper, 2003), they would be expected to be able to hear the low-frequency sonar associated with the proposed activities.

In terms of physiology, multiple scientific studies have documented a lack of mortality or physiological effects to fishes from exposure to low-frequency sonar and other sounds (Cox *et al.*, 2018; Jørgensen *et al.*, 2005; Kane *et al.*, 2010; Kvadsheim and Sevaldsen, 2005; Popper *et al.*, 2007). Techer *et al.* (2017) exposed carp (Cyprinidae family) in floating cages for up to 30 days to low-power 23 and 46 kHz sources without any significant physiological response. Other studies have documented either a lack of TTS in species whose hearing range cannot perceive higher frequency military sonar, or for those species that could perceive sonar-like signals, any TTS experienced would be recoverable (Halvorsen *et al.*, 2012; Ladich and Fay, 2013; Popper and Hastings, 2009a, 2009b; Popper *et al.*, 2014; Smith, 2016). In addition, any sonar-induced TTS to fishes whose hearing range could perceive sonar would occur only in the narrow spectrum of the mid-frequency source (e.g., 3.5 kHz) compared to the species' total hearing range (e.g., 0.01–5 kHz). Overall, military sonar sources are much narrower in terms of source frequency compared to a given fish species' full hearing range (Halvorsen *et al.*, 2012; Jørgensen *et al.*, 2005; Juanes *et al.*, 2017; Kane *et al.*, 2010; Kvadsheim and Sevaldsen, 2005; Popper *et al.*, 2007; Popper and Hawkins, 2016; Watwood *et al.*, 2016).

In terms of behavioral responses, Juanes *et al.* (2017) discuss the potential for negative impacts from anthropogenic soundscapes on fishes, but the author's focus was on broader based sounds such as vessel noise sources. Based on results from Doksaeter *et al.* (2009), Doksaeter *et al.* (2012) and Sivle *et al.* (2012), Sivle *et al.* (2015) created a model in order to report on the possible population-level effects on Atlantic herring from active naval sonar. The authors concluded that

the use of naval sonar poses little risk to populations of herring regardless of season, even when the herring populations are aggregated and directly exposed to sonar. Finally, Bruintjes *et al.* (2016) commented that fishes exposed to any short-term noise within their hearing range might initially startle but would quickly return to normal behavior.

For fishes exposed to military sonar, there would be limited sonar use spread out in time and space across large offshore areas such that only small areas are actually ensnified (tens of miles) compared to the total life history distribution of fish prey species. While there would be no probability of mortality or physical injury from low-frequency sonar exposure, there is the potential for minor, temporary changes in behavior among fishes, including increased swimming rate, avoidance of the sound source, or changes in orientation to the sound source. If behavioral effects were to occur, they would be localized and infrequent due to the transient nature of the vessels transmitting LFA sonar. Most acoustic effects, if any, are expected to be short-term and localized (a few seconds or minutes). Long-term consequences for fish populations, including key prey species within the Study Area, would not be expected based on the minor nature and short duration of the behavioral effects; and the low level and short duration (at most, 8 hours per day) of potential exposure to SURTASS LFA sonar.

Vessels and in-water devices do not normally collide with adult fishes, particularly those that are common marine mammal prey, most of which can detect and avoid them. Exposure of fishes to vessel strike stressors is limited to those fish groups that are large, slow-moving, and may occur near the surface, such as ocean sunfish, whale sharks, basking sharks, and manta rays. These species are distributed widely in the Study Area. Any isolated cases of a military vessel striking an individual could injure that individual, impacting the fitness of an individual fish. Vessel strikes would not pose a risk to most of the other marine fish groups, because many fish can detect and avoid vessel movements, making strikes rare and allowing the fish to return to their normal behavior after the ship or device passes. As a vessel approaches a fish, they could have a detectable behavioral or physiological response (*e.g.*, swimming away and increased heart rate) as the passing vessel displaces them. However, such responses are not expected to have lasting effects on the survival, growth, recruitment, or

reproduction of these marine fish groups at the population level and therefore would not have an impact on marine mammal species as prey items.

In addition to fishes, prey sources such as marine invertebrates could potentially be impacted by sound stressors as a result of the proposed activities. However, most marine invertebrates' ability to sense sounds is very limited. In most cases, marine invertebrates would not respond to non-impulsive sounds, although they may detect and briefly respond to nearby low-frequency sounds. These short-term responses would likely be inconsequential to invertebrate populations.

Invertebrates appear to be able to detect sounds (Pumphrey, 1950; Frings and Frings, 1967) and are most sensitive to low-frequency sounds (Packard *et al.*, 1990; Budelmann and Williamson, 1994; Lovell *et al.*, 2005; Mooney *et al.*, 2010). Data on response of invertebrates such as squid, another marine mammal prey species, to anthropogenic sound is more limited (de Soto, 2016; Solé *et al.*, 2017; Solé *et al.*, 2023). Solé *et al.* (2017) reported physiological injuries to cuttlefish in cages placed at-sea when exposed during a controlled exposure experiment to low-frequency sources (315 Hz, received levels ranged from 139 to 142 dB re 1 μPa^2 and 400 Hz, 139 to 141 dB re 1 μPa^2). However, Solé *et al.* (2017) deployed 1-second sweeps with a 100 percent duty cycle for 1 hour (dissimilar to SURTASS sources), and the animals were caged, and therefore unable to move away from the sound. The studies do not address the issue of individual displacement outside of a zone of impact when exposed to sound.

Cephalopods have a specialized sensory organ inside the head called a statocyst that may help an animal determine its position in space (orientation) and maintain balance (Budelmann, 1992). Packard *et al.* (1990) showed that cephalopods were sensitive to particle motion, not sound pressure, and Mooney *et al.* (2010) demonstrated that squid statocysts act as an accelerometer through which particle motion of the sound field can be detected. Auditory injuries (lesions occurring on the statocyst sensory hair cells) have been reported upon controlled exposure to low-frequency sounds, suggesting that cephalopods are particularly sensitive to low-frequency sound (Andre *et al.*, 2011; Sole *et al.*, 2013; Leedham *et al.*, 2026). Behavioral responses, such as inking and jetting, have also been reported upon exposure to low-frequency sound (McCauley *et al.*, 2000b; Samson *et al.*, 2014; Solé *et al.*, 2023). Squids, like most fishes

species, are likely more sensitive to low frequency sounds (Mooney *et al.*, 2010). Cumulatively for squid as a prey species, individual and population impacts from exposure to Navy sonar, like fishes, are not likely to be significant.

Vessels have the potential to impact marine invertebrates by disturbing the water column or sediments, or directly striking organisms (Bishop, 2008). The propeller wash (water displaced by propellers used for propulsion) from vessel movement and water displaced from vessel hulls can potentially disturb marine invertebrates in the water column and is a likely cause of zooplankton mortality (Bickel *et al.*, 2011). The localized and short-term exposure to vessels could displace, injure, or kill zooplankton, invertebrate eggs or larvae, and macro-invertebrates. However, mortality or long-term consequences for a few animals are unlikely to have measurable effects on overall populations. Long-term consequences to marine invertebrate populations would not be expected as a result of exposure to sounds of vessels in the Study Area.

Overall, the combined impacts of sound exposure and vessel movement resulting from the proposed activities would not be expected to have measurable effects on populations of marine mammal prey species. Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. Mortality from decompression injuries is possible in close proximity to a sound, but only limited data on mortality in response to an impulsive source (air gun noise) exposure are available (Fields *et al.*, 2019, Hawkins *et al.*, 2014, McCauley *et al.*, 2017) and not applicable as the proposed activities involve only a non-impulsive source. The most likely impacts for most prey species in a given area would be temporary avoidance of the area. While the potential for disruption of spawning aggregations or schools of important prey species can be meaningful on a local scale, the mobile and temporary nature of most surveys and the likelihood of temporary avoidance behavior suggest that impacts would be minor. Long-term consequences to marine invertebrate populations would not be expected as a result of exposure to sounds or vessels in the Study Area.

Acoustic Habitat

Acoustic habitat is the soundscape which encompasses all of the sound present in a particular location and at a

particular time, as a whole when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (e.g., communication during feeding, mating, and other social activities), other animals (e.g., finding prey or avoiding predators), and the physical environment (e.g., finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (e.g., produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic or may be intentionally introduced to the marine environment for data acquisition purposes (e.g., the use of air gun arrays) or for military training and testing purposes (e.g., the use of sonar and other acoustic sources). Anthropogenic noise varies widely in its frequency, content, duration, and SPL, and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please also see the previous discussion in the Masking section), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). For more detail on these concepts see Barber *et al.*, 2009; Pijanowski *et al.*, 2011; Lillis *et al.*, 2014.

The term “listening area” refers to the region of ocean over which sources of sound can be detected by an animal at the center of the space. Loss of communication space concerns the area over which a specific animal signal (used to communicate with conspecifics in biologically important contexts such as foraging or mating) can be heard, in noisier relative to quieter conditions (Clark *et al.*, 2009). Lost listening area concerns the more generalized contraction of the range over which animals would be able to detect a

variety of signals of biological importance, including eavesdropping on predators and prey (Barber *et al.*, 2009). Such metrics do not, in and of themselves, document fitness consequences for the marine animals that live in chronically noisy environments. Long-term population-level consequences mediated through changes in the ultimate survival and reproductive success of individuals are difficult to study, and particularly so underwater. However, it is increasingly well documented that aquatic species rely on qualities of natural acoustic habitats, with researchers quantifying reduced detection of important ecological cues (e.g., Francis and Barber, 2013; Slabbekoorn *et al.*, 2010) as well as survivorship consequences in several species (e.g., Simpson *et al.*, 2015; Nedelec *et al.*, 2015).

Any anthropogenic noise attributed to SURTASS LFA sonar training and testing activities in the Study Area would be temporary and the affected area would be expected to immediately return to its original state when these activities cease.

Water Quality

Training and testing activities of SURTASS LFA sonar would have no effect on marine sediments as all equipment would only be deployed in the marine water column. No part of the proposed activities would affect seafloor sediments. The execution of the proposed activities would add sound to the ambient ocean environment, and water quality may potentially be affected should pollutants be discharged from T-AGOS vessels into oceanic waters. All equipment is properly maintained in accordance with applicable Navy and legal requirements. All such operating equipment meets Federal water quality standards, where applicable.

Estimated Take of Marine Mammals

This section indicates the number of takes that NMFS is proposing to authorize, which is based on the amount of take that NMFS anticipates is reasonably likely to occur. NMFS coordinated closely with the Navy in the development of their incidental take application and preliminarily agrees that: (1) the methods the Navy has put forth described herein to estimate take (including the model, thresholds, and density estimates); and (2) the resulting numbers are based on the best available science and appropriate for authorization.

Takes would be in the form of harassment only. For this military readiness activity, the MMPA defines

“harassment” as (1) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (2) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment) (16 U.S.C. 1362(18)(B)).

Proposed authorized takes would primarily be in the form of Level B harassment, as use of the acoustic sources is most likely to result in disruption of natural behavioral patterns to a point where they are abandoned or significantly altered (as defined specifically at the beginning of this section, but referred to generally as behavioral disturbance) for marine mammals, either via direct behavioral disturbance or TTS. There is also the potential for Level A harassment, in the form of auditory injury to result from exposure to SURTASS LFA sonar. Although we analyze the impacts of the potential harassment takes that are proposed for authorization, the proposed mitigation and monitoring measures are expected to minimize the severity of these takes.

Generally speaking, for acoustic impacts NMFS estimates the amount and type of harassment by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals would experience behavioral disturbance or incur some degree of temporary or permanent hearing impairment; (2) the area or volume of water that would be ensonified above these levels in a day or event; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities.

It is important to note that for this SURTASS LFA sonar proposed rule, the Navy, in coordination with NMFS, has elected to change both the acoustic thresholds and the take estimation methodology used to better reflect the best available science and also better align with the analytical methods used in other Navy training and testing rules. Specifically, all of the acoustic thresholds and take calculation methods used here are referred to as “Phase IV” and described in the Criteria and Thresholds Technical Report, mirroring those used in analyses supporting the Phase IV AFTT (90 FR 50504, November 7, 2025) and HCTT (90 FR 58810, December 17, 2025) training and testing regulations. Alternatively, in the

previous SURTASS LFA sonar rule (84 FR 40132, August 13, 2019), Phase III thresholds were used for acoustic injury prediction, a SURTASS-specific threshold was used to predict behavioral disturbance, and different SURTASS-specific methods and modeling were used in the calculation of take.

Acoustic Thresholds

Using the best available science, NMFS, in coordination with the Navy, has established acoustic thresholds that identify the most appropriate received level of underwater sound above which marine mammals exposed to these sound sources could be reasonably expected to directly incur a disruption in behavior patterns to a point where they are abandoned or significantly altered (equated to onset of Level B harassment), or to incur TTS onset (equated to Level B harassment via the indirect disruptions of behavioral patterns) or AUD INJ onset (equated to Level A harassment).

Hearing Impairment (TTS/AUD INJ)

NMFS' 2024 Technical Guidance (NMFS, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Updated Technical Guidance also identifies criteria to predict TTS, which is not considered injury and falls into the Level B harassment category. The Navy's specified activities include the use of non-impulsive (*i.e.*, sonar) sources.

For the consideration of impacts on hearing in Phase IV of the Navy's at-sea training and testing program (which SURTASS LFA sonar is considered a part of), marine mammals were divided into nine groups for analysis: VLF, LF, HF, VHF, SI, PCW and PCA, and OCW and OCA. For each group, a frequency-dependent weighting function and numeric thresholds for the onset of TTS and the onset of AUD INJ were estimated. The onset of TTS is defined as a TTS of 6 dB measured approximately 2–5 minutes after exposure. A TTS of 40 dB is used as a proxy for the onset of AUD INJ (*i.e.*, it is assumed that exposures beyond those capable of causing 40 dB of TTS have the potential to result in PTS or other auditory injury (*e.g.*, loss of cochlear

neuron synapses)). Exposures just sufficient to cause TTS or AUD INJ are denoted as "TTS onset" or "AUD INJ onset" exposures. Onset levels are treated as step functions or "all-or-nothing" thresholds: exposures above the TTS or AUD INJ onset level are assumed to always result in TTS or AUD INJ, while exposures below the TTS or AUD INJ onset level are assumed to not cause TTS or AUD INJ. For non-impulsive exposures, onset levels are specified in frequency-weighted cumulative SEL.

To compare Phase IV weighting functions and TTS/AUD INJ SEL thresholds to those used in Phase III (which are the same as those included in NMFS (2018), which were used to predict TTS and AUD INJ in the previous SURTASS LFA sonar rule (84 FR 40132, August 13, 2019)), both the weighting function shape and the weighted threshold values were considered; the weighted thresholds by themselves indicate the TTS/AUD INJ threshold at only the most susceptible frequency (based on the relevant weighting function). In contrast, the TTS/AUD INJ exposure functions incorporate both the shape of the weighting function and the weighted threshold value and provide the best means of comparing the frequency-dependent TTS/AUD INJ thresholds for Phase III and Phase IV.

The most significant differences between the Phase III functions used in the previous SURTASS LFA sonar rule and the Phase IV functions and thresholds used here include the following:

- Mysticetes were divided into two groups (VLF and LF cetaceans), with the upper hearing limit for the LF cetacean group increased from Phase III to match recent hearing measurements in minke whales (Houser *et al.*, 2024);
- Group names were changed from Phase III to be consistent with Southall *et al.* (2019). Specifically, the Phase III mid-frequency (MF) cetacean group is now designated as the high-frequency (HF) cetacean group, and the group previously designated as high-frequency (HF) cetaceans is now the very-high frequency (VHF) cetacean group;
- For the HF group, Phase IV onset TTS/AUD INJ thresholds are lower compared to Phase III at frequencies below approximately 10 kHz. This is a result of new TTS onset data for

dolphins at low frequencies (Finneran *et al.*, 2023);

- For the PCW group, new TTS data for harbor seals (Kastelein *et al.*, 2020a; Kastelein *et al.*, 2020b) resulted in slightly lower TTS/AUD INJ thresholds at high frequencies compared to Phase III; and

- For group OCW, new TTS data for California sea lions (Kastelein *et al.*, 2021b; Kastelein *et al.*, 2022a, 2022b) resulted in significantly lower TTS/AUD INJ thresholds compared to Phase III.

Of note, the thresholds and weighting function for the LF cetacean hearing group in NMFS' 2024 Technical Guidance (NMFS, 2024) match the Navy's VLF cetacean hearing group. However, the weighting function for those hearing groups differs between the two documents (*i.e.*, the Navy's LF cetacean group has a different weighting function from NMFS) due to the Houser *et al.* (2024) minke whale data incorporated into Navy 2024, but not NMFS (2024). While NMFS' 2024 Technical Guidance differs from the criteria that the Navy used to assess AUD INJ and TTS for low-frequency cetaceans, NMFS concurs that the criteria the Navy applied are appropriate for assessing the impacts of their proposed action. The criteria used by the Navy are conservative in that those criteria show greater sensitivity at higher frequencies (*i.e.*, application of those criteria result in a higher amount of estimated take by higher frequency sonars than would result from application of NMFS' 2024 Technical Guidance) which is where more of the take is expected. Of note, the Navy did not request, and NMFS did not authorize, take by Level A harassment in the 2019 SURTASS LFA sonar rule (84 FR 40132, August 13, 2019).

These thresholds (table 4) were developed by compiling and synthesizing the best available science and soliciting input multiple times from both public and peer reviewers. The references, analysis, and methodology used in the development of the thresholds are described in Updated Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

BILLING CODE 3510-22-P

Table 4 -- Acoustic Thresholds Identifying the Onset of TTS

Group	TTS threshold SEL (weighted)	AUD INJ threshold SEL (weighted)
Very low-frequency (VLF)	177	197
Low-frequency (LF)	177	197
High-frequency (HF)	181	201
Very high-frequency (VHF)	161	181
Phocid carnivores in water (PW)	175	195
Otariid carnivores in water (OW)	179	199

Note: SEL thresholds in dB re 1 μPa^2 s underwater.

Level B Harassment by Behavioral Disturbance

Though significantly driven by received level and distance, the onset of Level B harassment by behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors and can be difficult to predict (Southall *et al.*, 2007; Ellison *et al.*, 2012). As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, marine mammal responses to sound (some of which are considered disturbances that qualify as take under the MMPA) are highly variable and context specific (*i.e.*, they are affected by differences in acoustic conditions; differences between species and populations; differences in sex, age, reproductive status, or social behavior; and other prior experience of the individuals). This means there is support for considering alternative approaches for estimating Level B behavioral harassment. As noted above, for this proposed rule, the Navy coordinated with NMFS and adopted the acoustic thresholds and take estimation methodology used to predict behavioral harassment used in other Phase 4 Navy rules (described in the Criteria and Thresholds Technical Report), as opposed to the SURTASS-specific thresholds and methodology used in the previous rule (84 FR 40132, August 13, 2019). Specifically, the previous thresholds used were based on a Low Frequency Sonar Scientific Research Project conducted in 1998 and used a “single ping equivalent” metric to predict responses, and a different model, the AIM, was used to model and quantify exposures. As described in the Criteria and Thresholds Technical Report, the Phase IV thresholds and methods used in this proposed rule utilize the best available science.

Despite the rapidly evolving science, there are still challenges in quantifying expected behavioral responses that qualify as take by Level B harassment, especially where the goal is to use one or two predictable indicators (*e.g.*, received level and distance) to predict responses that are also driven by additional factors that cannot be easily incorporated into the thresholds (*e.g.*, context). So, while the criteria used here to identify Level B harassment by behavioral disturbance (referred to as “behavioral harassment thresholds”) consider the best available science (*e.g.*, incorporating both received level and distance), they also have some built-in factors to address the challenge noted. For example, while duration of observed responses in the data are considered in the thresholds, some of the responses that are informing take thresholds are of a very short duration, such that it is possible some of these responses might not always rise to the level of disrupting behavior patterns to a point where they are abandoned or significantly altered. We describe the application of this behavioral harassment threshold as identifying the maximum number of instances in which marine mammals could be reasonably expected to experience a disruption in behavior patterns to a point where they are abandoned or significantly altered. In summary, we believe these behavioral harassment criteria are the most appropriate method for predicting Level B harassment by behavioral disturbance given the best available science and the associated uncertainty.

In its analysis of impacts associated with sonar acoustic sources (which was coordinated with NMFS), the Navy used an updated approach, as described below. Many of the behavioral responses identified using the Navy’s quantitative analysis are most likely to be of moderate severity as described in the Southall *et al.* (2021) behavioral

response severity scale. These “moderate” severity responses were considered significant if they were sustained for the duration of the exposure or longer. Within the Navy’s quantitative analysis, many responses are predicted from exposure to sound that may exceed an animal’s Level B behavioral harassment threshold for only a single exposure (lasting a few seconds) to several minutes, and it is likely that some of the resulting estimated behavioral responses that are counted as Level B harassment would not constitute “significantly altering or abandoning natural behavioral patterns” (*i.e.*, the estimated number of takes by Level B harassment due to behavioral disturbance and response is likely somewhat of an overestimate).

As noted above, the Navy coordinated with NMFS to develop behavioral harassment thresholds specific to their military readiness activities utilizing active sonar that identify at what received level and distance Level B harassment by behavioral disturbance would be expected to result. These behavioral harassment thresholds consist of behavioral response functions (BRFs) and associated distance cut-off conditions, and are also referred to, together, as “the criteria.” These criteria are used to estimate the number of animals that may exhibit a behavioral response that qualifies as take under the MMPA when exposed to sonar and other transducers. The way the criteria were derived is discussed in detail in the Criteria and Thresholds Technical Report. Developing these behavioral harassment criteria involved multiple steps. All peer-reviewed published BRSs conducted both in the field and on captive animals were examined in order to understand the breadth of behavioral responses of marine mammals to sonar and other transducers. Marine mammals were divided into four groups for analysis: (1) mysticetes (all baleen

whales); (2) odontocetes (most toothed whales, dolphins, and porpoises); (3) sensitive species (beaked whales and harbor porpoise); and (4) pinnipeds and other marine carnivores (true seals, sea lions, walruses, sea otters, polar bears). For each group, a biphasic BRF was developed using the best available data and Bayesian dose response models developed at the University of St. Andrews. The BRF-based probability of response on the highest SPL (RMS) received level.

The BRFs relate only the highest received level of sound to the probability that an animal will have a behavioral response. The BRFs do not account for the duration or pattern of use of any individual sound source or of the activity as a whole, the number of sound sources that may be operating simultaneously, or how loud the animal may perceive the sonar signal to be based on the frequency of the sonar versus the animal's hearing range.

Criteria for assessing marine mammal behavioral responses to sonars use the metric of highest received sound level (RMS SPL) to evaluate the risk of immediate responses by exposed animals. Currently, there are limited data to develop criteria that include the context of an exposure, characteristics of individual animals, behavioral state, duration of an exposure, sound source duty cycle, and the number of individual sources in an activity (although these factors certainly influence the severity of a behavioral response) and, further, even where certain contextual factors may be predictive where known, it is difficult to reliably predict when such factors will be present.

The BRFs also do not account for distance. At moderate to low received levels the correlation between probability of response and received level is very poor and it appears that other variables mediate behavioral responses (*e.g.*, Ellison *et al.*, 2012) such as the distance between the animal and the sound source. For this analysis, distance between the animal and the sound source (*i.e.*, range) was initially included; however, range was too confounded with received level and therefore did not provide additional information about the possibility of response.

Data suggest that beyond a certain distance, significant behavioral responses are unlikely. At shorter ranges (less than 10 km) some behavioral responses have been observed at received levels below 140 dB re 1 μ Pa. Thus, proximity may mediate behavioral responses at lower received levels. Since most data used to derive the BRFs are within 10 km of the source, probability of response at farther ranges is not well-represented. Therefore, the source-receiver range must be considered separately to estimate likely significant behavioral responses.

This analysis applies behavioral cut-off conditions to responses predicted using the BRFs. Animals within a specified distance and above a minimum probability of response are assumed to have a significant behavioral response. The cut-off distance is based on the farthest source-animal distance across all known studies where animals exhibited a significant behavioral response. Animals beyond the cut-off distance but with received levels above the sound pressure level associated with

a probability of response of 0.50 on the BRF are also assumed to have a significant behavioral response. The actual likelihood of significant behavioral responses occurring beyond the distance cut-off is unknown. Significant behavioral responses beyond 100 km are unlikely based on source-animal distance and attenuated received levels. The behavioral cut-off conditions and additional information on the derivation of the cut-off conditions can be found in table 2.2–3 of the Criteria and Thresholds Technical Report.

The Navy used cutoff distances beyond which the potential of significant behavioral responses (and therefore Level B harassment) is considered to be unlikely (table 5). These distances were determined by examining all available published field observations of behavioral responses to sonar or sonar-like signals that included the distance between the sound source and the marine mammal. Behavioral effects calculations are based on the maximum SPL to which a modeled marine mammal is exposed. There is empirical evidence to suggest that animals are more likely to exhibit significant behavioral responses to moderate levels sounds that are closer and less likely to exhibit behavioral responses when exposed to moderate levels of sound from a source that is far away. To account for this, the Navy has implemented behavioral cutoffs that consider both received sound level and distance from the source. These updated cutoffs conditions are unique to each behavioral hearing group and are outlined in table 5.

Table 5 -- Behavioral Cut-off Conditions for each Behavioral Hearing Group

Behavioral group	Received level associated with p(0.50) on the behavioral response function	Cut-off range
Sensitive Species	133 dB RMS SPL	40 km
Odontocetes	168 dB RMS SPL	15 km
Mysticetes	185 dB RMS SPL	10 km
Pinnipeds	156 dB RMS SPL	5 km

Note: Sensitive Species includes beaked whales and harbor porpoises. The Sensitive Species cut-off range for SURTASS LFA sonar activities is beyond 500 km regardless of received level based on the lowered sensation level of low-frequency sound to these cetaceans and the reduced sensitivity at long distances (*i.e.*, 500 km) as proximity has been shown to be a contextual factor driving behavioral reactions.

BILLING CODE 3510-22-C

The Navy and NMFS have used the best available science to address the challenging differentiation between

significant and non-significant behavioral responses (*i.e.*, whether the behavior has been abandoned or

significantly altered such that it qualifies as harassment), but have erred on the cautious side where uncertainty

exists (e.g., counting these lower duration responses as take), which likely results in some degree of overestimation of Level B harassment by behavioral disturbance. Therefore, we consider application of these behavioral harassment criteria as identifying the maximum number of instances in which marine mammals could be reasonably expected to experience a disruption in behavior patterns to a point where they are abandoned or significantly altered (i.e., Level B harassment). NMFS has carefully reviewed the criteria (i.e., BRFs and cutoff distances for the species) and agrees that it is the best available science and is the appropriate method to use at this time for determining impacts to marine mammals from military sonar and other transducers and for calculating take and to support the determinations made in this proposed rule. Because this is the most appropriate method for estimating Level B harassment given the best available science and uncertainty on the topic, these numbers of Level B harassment by behavioral disturbance are analyzed in the Preliminary Analysis and Negligible Impact Determination section and would be authorized.

Navy Acoustic Effects Model

NAEMO is the Navy's current standard model for assessing acoustic effects on marine mammals. As noted above, NAEMO includes differences from the AIM model previously used for the SURTASS LFA sonar that support a more accurate acoustic effects analysis based on the best available science. These factors are summarized below.

NAEMO calculates sound energy propagation from sonar and other transducers during military readiness activities and the sound received by animat dosimeters. Animat dosimeters are virtual representations of marine mammals distributed in the area around the modeled activity and each dosimeter records its individual sound "dose." The model bases the distribution of animats over the Study Area on the density values in the Navy Marine Species Density Database (NMSDD) and distributes animats in the water column proportional to the known time that species spend at varying depths. It should be noted that the dive profile research included in the technical report "Dive Distribution and Group Size Parameters for Marine Species Occurring in the U.S. Navy's Pacific Surveillance Towed Array Sensor System Low Frequency Active Sonar Training and Testing Study Area" (U.S. Department of the Navy, 2025a/b/c), had to be completed by the fall of 2022 for

the majority of marine mammals, before modeling began for the specified activities. As a result, although the technical report was not published until 2025, research for it largely stopped in 2022. Some dive profiles were researched after 2022 (e.g., Indo-Pacific finless porpoise) and include data from 2022 onwards.

The model accounts for environmental variability of sound propagation in both distance and depth when computing the sound level received by the animats in accordance with the process described in the "Quantifying Acoustic Impacts on Marine Mammals and Sea Turtles: Methods and Analytical Approach for Phase IV Training and Testing" report.

As described in the *Marine Mammal Density* section, below, the Navy selected 15 representative modeling sites covering the spatial extent of the Study Area to provide representative regional coverage (see figure 1.1–1 of the Density Technical Report). The Navy assumed that use of SURTASS LFA sonar was equally likely at each site, and therefore, it split the total number of SURTASS LFA sonar hours evenly across the 15 modeling sites. The model conducts a statistical analysis based on multiple runs to compute the estimated effects on animals. The number of animats that exceed the thresholds for effects is tallied to provide an estimate of the number of marine mammals that could be affected.

Assumptions in NAEMO intentionally err on the side of overestimation when there are unknowns. The specified activities are modeled as though they would occur regardless of proximity to marine mammals, meaning that the implementation of shutdowns is not modeled or, thereby, considered in the take estimates. For more information on this process, see the discussion in the *Estimated Take from Acoustic Stressors* section below.

The model estimates the acoustic impacts caused by the SURTASS LFA sonar system during individual military readiness activities, with active SURTASS LFA sonar use modeled at 8 hours per day. During any individual modeled event, impacts to individual animats are considered over 24-hour periods. The animats do not represent actual animals, but rather they represent a distribution of animals based on density and abundance data, which allows for a statistical analysis of the number of instances that marine mammals may be exposed to sound levels resulting in an effect. Therefore, the model estimates the number of instances in which an effect threshold was exceeded over the course of a year

but does not estimate the number of individual marine mammals that may be impacted over a year (i.e., some marine mammals could be impacted several times, while others would not experience any impact). A detailed explanation of NAEMO is provided in the technical report "Quantifying Acoustic Impacts on Marine Mammals and Sea Turtles: Methods and Analytical Approach for Phase IV Training and Testing" (U.S. Department of the Navy, 2024b), hereafter referred to as the Acoustic Impacts Technical Report.

All previous iterations of SURTASS LFA sonar modeling were done using the Marine Acoustics, Inc. software AIM. The Navy elected to transition modeling for SURTASS to NAEMO, as it is the Navy-wide approved acoustic effect model for all at-sea projects. For this proposed action, NAEMO was used to quantify estimated acoustic exposures to marine mammals. AIM, as described in the 2019 SURTASS SEIS/OEIS, and NAEMO are similar in many ways (both models represent each marine species as independent virtual animals called "animats"), but there are differences:

- Source parameters modeled in NAEMO accurately reflect operational parameters, based on validation from system subject matter experts, and the SL and duty cycle are higher than those used in AIM;
 - NAEMO uses the range-dependent Comprehensive Acoustic Simulation System/Gaussian Ray Bundle (CASS-GRAB) for propagation modeling while AIM uses the range-dependent Navy standard parabolic equation (PE);
 - NAEMO models propagation at 5-degree bearing resolution, AIM uses a 90-degree resolution;
 - NAEMO models to a maximum 500 km distance extent for SURTASS LFA sonar modeling, while AIM models to a 100 dB transmission loss cutoff;
 - NAEMO distributes animats and runs simulations for all unique species-stock density layers while AIM used three representative densities for modeling and scales simulation output based on species-stock density for final results;
 - Animats are horizontally stationary in NAEMO, while AIM simulates animat movement;
 - NAEMO mathematically approximates animal avoidance to sound, while AIM's animal movement did not factor avoidance;
 - NAEMO calculates behavioral effect using the maximum SPL an animat is exposed to, while AIM uses a single ping equivalent metric.
- Animat avoidance of high SLs was incorporated into NAEMO, with marine

mammal avoidance thresholds based on their sensitivity to behavioral response. This process reduces the SEL, defined as the accumulation for a given animal, by reducing the received SPLs of individual exposures based on a spherical spreading calculation from sources on each unique platform in an event. The onset of avoidance was based on the behavioral response functions. Some species that are less sensitive to behavioral response (*i.e.*, most odontocetes and mysticetes) had less reduction in AUD INJ due to avoidance than in the prior analysis, leading to higher AUD INJ estimates. A detailed explanation of animal avoidance in NAEMO is provided in the Acoustic Impacts Technical Report.

As NAEMO interrogates the simulation data in the animal processor, exposures that are both outside the distance cutoff and below the received level cutoff are omitted when determining the maximum SPL for each animal.

The presence of the two cutoff criteria in Phase IV of the Navy's at-sea training and testing program provides an accurate and conservative estimation of behavioral effects, while the estimation of behavioral effects still omits exposures at distances and received levels that would be unlikely to produce a significant behavioral response. NAEMO retains the capability of calculating behavioral effects without the cutoffs applied, depending on user preference.

The modeling methods outlined in the Acoustic Impacts Technical Report are applied to SURTASS LFA with two exceptions: (1) NAEMO methods are applied to 500 km instead of 100 km; and (2) propagation of the array is calculated based on the individual transducers and combined rather than as a point source.

For Phase IV at-sea program modeling efforts for other non-SURTASS LFA acoustic sources, NAEMO modeled out to 100 km for all sources. However, a 2022 analysis of the SURTASS LFA sonar system by the Marine Species Modeling Team at the Naval Undersea Warfare Center determined, based on Phase IV criteria, the standard 100 km modeling extent would be insufficient to capture all behavioral effects on marine species. Both distance and the received level cutoff conditions are considered in determining which exposures are included in the behavioral effects calculation. While the specified distance condition (*i.e.*, the farthest source animal distance across all known studies) for all behavioral hearing groups is within 100 km, sound exposures above the received level

cutoff condition (based on the 50 percent value along the behavioral response function) extended outside of 100 km for the SURTASS LFA sonar source for some behavioral hearing groups. Contributing factors to the long propagation distance for the LFA sonar system include the high source level and decreased loss of energy to low-frequency waves from absorption of sound in the ocean in some locations and under some environmental conditions. For SURTASS LFA modeling, NAEMO propagates out to 500 km, regardless of transmission loss, to capture the long transmission range given the low frequency and high apparent source level of the system and ensure that the appropriate received level cutoff condition can be applied for all groups.

SURTASS LFA is a towed array with multiple projectors located at different depths. The sound fields of the individual projectors are independent within a range from the source called the "near-field." Past that range is considered the "far-field," where transmissions from the individual projectors constructively interfere and the sound field behaves like that of a point source at the center point of the array depth. The received level of the array in the far-field is greater than what the received level would be from an individual projector in the far field. Therefore, the array is modeled in the far-field with a source level based on the cumulative energy of the projectors acting together. For the array source level, the effective source level of the system design was used. Effective source level is a theoretical value, hypothetically measured at 1 m from the array on its horizontal axis, calculated from the formula:

$$SL_{\text{array}} = SLE + 20\log_{10}N$$

Where:

- SLE = source level of an individual projector
- N = number of projectors

The near-field range was estimated based on the Fresnel distance (Guo *et al.*, 2024), which is dependent on the source frequency and size of the array. The analysis indicated that the near-field range would be within the SURTASS LFA mitigation zone, a small value relative to the 500 km propagation range NAEMO extends to for this source. Because the estimated near-field range is relatively small, NAEMO models SURTASS LFA at all ranges using the effective source level of the array, including within the near field.

Propagation modeling in NAEMO does not apply source level and uses only the frequency, depth, vertical beam

width, and relative beam angle (*i.e.*, the vertical directionality of the beam) to create the transmission loss table (see section 4.1 of the Acoustic Impacts Technical Report). For each coordinate point where propagation is modeled for the SURTASS LFA system, NAEMO calculates the transmission loss for each individual projector within the array and combines them into a single transmission loss table. That transmission loss is then applied to a source level in the simulator (see section 4.3 of the Acoustic Impacts Technical Report). The source level, that was applied in NAEMO in both the near- and far-field, was the effective source level of the array, which likely results in an over-estimate of the received level in the near-field.

Range to Effects for Sonar

This section provides range (distance) to effects for sonar (active acoustic sources) to specific acoustic thresholds determined using NAEMO. Ranges are determined by modeling the distance that noise from a source will need to propagate to reach exposure level thresholds specific to a hearing group that will cause behavioral response, TTS, AUD INJ, non-auditory injury, and mortality, as described in the Acoustic Impacts Technical Report. Of note, neither non-auditory injury nor mortality were estimated for SURTASS LFA sonar activities, so they are not discussed further. Ranges to effects (table 6) are utilized to help predict impacts from acoustic sources and assess the benefit of mitigation zones. The ranges-to-effect calculations are bound by a species' maximum dive depth, and only the data for effects at less than or equal to the maximum dive depth of the species is used to estimate impact ranges. Marine mammals exposed within these ranges for the duration shown are predicted to experience the associated effect. Range to effects is important information in not only predicting acoustic impacts, but also in verifying the accuracy of model results against real-world situations and determining adequate mitigation ranges to avoid higher level effects, especially physiological effects to marine mammals.

Ranges to effects for sonar were determined by modeling the distance that sound would need to propagate to reach exposure level thresholds specific to a hearing group that would cause behavioral response, TTS, and AUD INJ, as described in the Criteria and Thresholds Technical Report. The ranges do not account for an animal avoiding a source nor for the movement of the platform, both of which would

influence the actual range to onset of auditory effects during an actual exposure.
Table 6 provides the ranges to TTS and AUD INJ for marine mammals from

exposure to the sonar system proposed for use (see also appendix B of the application). Due to the lower acoustic thresholds for TTS versus AUD INJ,

ranges to TTS are larger. Successive pings can be expected to add together, further increasing the range to the onset of TTS and AUD INJ.

Table 6 -- Ranges to Effects for SURTASS LFA Sonar

Hearing group	Range to TTS	Range to AUD INJ
VLF	65,097 m (21,323 m)	1,000 m (393 m)
LF	3,500 m (14,373 m)	10 m (247 m)
HF	0 m (70 m)	0 m (0 m)
VHF	0 m (0 m)	0 m (0 m)
OW	0 m (0 m)	0 m (0 m)
PW	2,500 m (5,755 m)	0 m (95 m)
Note: Median ranges for an exposure duration of 60 seconds are shown with standard deviation ranges in parentheses. The Navy split the LF functional hearing group into LF and VLF based on Houser <i>et al.</i> , (2024); however, NMFS updated acoustic technical guidance (NMFS, 2024) does not include these data, but we have included the VLF group here for reference.		

As described in the Level B Harassment by Behavioral Disturbance section, the BRFs relate only the highest received level of sound during an event to the probability that an animal will have a behavioral response. The Navy’s analysis applies behavioral cut-off conditions to responses predicted using the BRFs. Animals within a specified distance and above a minimum probability of response are assumed to have a significant behavioral response. The cut-off distance is based on the farthest source animal distance across all known scientific studies where animals exhibited a significant behavioral response. Animals beyond the cut-off distance but with received levels above the sound pressure level associated with a probability of response of 0.50 (denoted p(0.5)) on the BRF are also assumed to have a significant behavioral response. The actual likelihood of significant behavioral reactions occurring beyond the distance cut-off is unknown.

As opposed to defining a specific cut-off distance, previous modeling using AIM propagated SURTASS LFA sonar to wherever there was 100 dB of transmission loss. NAEMO uses the maximum unweighted SPL value of exposures received by an animat to determine the behavioral effects. Cutoff conditions are applied in both distance and received level in NAEMO to determine which exposures are included in the behavioral effects

calculation (see appendix C of the application for more information).

The mean, 5th, and 95th percentile behavioral response curves (see figures 2–17 through 2–20 of appendix B to the application) provide the probability of behavioral response as a function of range for the sensitive species (beaked whales), mysticete (all baleen whales), odontocete (most toothed whales, most porpoises, and dolphins), and pinniped (true seals and sea lions) behavioral response groups.

Marine Mammal Density

A quantitative analysis of impacts on a species or stock requires data on their abundance and distribution that may be affected by anthropogenic activities in the potentially impacted area. The most appropriate metric for this type of analysis is density, which is the number of animals present per unit area. Marine species density estimation requires a significant amount of effort to both collect and analyze data to produce a reasonable estimate. Unlike the species observed during surveys for terrestrial wildlife, many marine species spend much of their time submerged and are not easily observed. In order to collect enough sighting data to make reasonable density estimates, multiple observations are required, often in areas that are not easily accessible (e.g., far offshore). Ideally, marine mammal species sighting data would be collected for the specific area and time period (e.g.,

season) of interest and density estimates derived accordingly. However, in many places, poor weather conditions and high sea states prohibit the completion of comprehensive visual surveys.

For most cetacean species, abundance is estimated using line-transect surveys or mark-recapture studies (e.g., Barlow, 2010; Barlow and Forney, 2007; Bradford *et al.*, 2021; Calambokidis *et al.*, 2008). This is the general approach applied in estimating cetacean abundance in NMFS SARs. Although the single value provides a good average estimate of abundance (i.e., total number of individuals) for a specified area, it does not provide information on the species distribution or concentrations within that area, and it does not estimate density for other timeframes or seasons that were not surveyed. More recently, spatial habitat modeling has been used to estimate cetacean densities (e.g., Becker *et al.*, 2022a, Becker *et al.*, 2022b, Kaschner *et al.*, 2006, Kaschner *et al.*, 2012). These models estimate cetacean density as a continuous function of habitat variables (e.g., sea surface temperature, seafloor depth, etc.) and thus allow predictions of cetacean densities on finer spatial scales than traditional line-transect or mark recapture analyses, and for areas that have not been surveyed. Within the geographic area that was modeled, densities can be predicted wherever these habitat variables can be measured or estimated.

Ideally, density data would be available for all species throughout the Study Area year-round, in order to best estimate the impacts of specified activities on marine species. However, in many places, vessel availability, lack of funding, inclement weather conditions, and high sea states prevent the completion of comprehensive year-round surveys. Even with surveys that are completed, poor conditions may result in lower sighting rates for species that would typically be sighted with greater frequency under favorable conditions. Lower sighting rates preclude having an acceptably low uncertainty in the density estimates. A high level of uncertainty, indicating a low level of confidence in the density estimate, is typical for species that are rare or difficult to sight. In areas where survey data are limited or non-existent, known or inferred associations between marine habitat features and the likely presence of specific species are sometimes used to predict densities in the absence of actual animal sightings. Consequently, there is no single source of density data for every area, species, and season because of the fiscal costs, resources, and effort involved in providing enough survey coverage to sufficiently estimate density.

To characterize the marine species density for large oceanic regions, the Navy reviewed, critically assessed, and prioritized existing density estimates from multiple sources, requiring the development of a systematic method for selecting the most appropriate density estimate for each combination of species/stock, area, and season. The Navy obtained published and unpublished marine mammal data from NMFS Science Centers, foreign experts, NMFS-affiliated subject matter experts, and references from across the Pacific and Eastern Indian Oceans, where available. The selection and compilation of the best available marine species density data resulted in the Navy's Marine Species Density Database (NMSDD). The purpose of the Navy's NMSDD is to document the best available sources of density data for marine mammal species occurring in the western and central North Pacific and eastern Indian ocean areas where the SURTASS LFA systems are operated, and to provide a summary of species-specific and area-specific density estimates incorporated into the NMSDD. This database is described in the "U.S. Navy Marine Species Density Database for the Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA) Sonar Systems" technical report (U.S. Department of the

Navy, 2024), hereafter referred to as the Density Technical Report. NMFS reviewed all marine mammal densities provided by the Navy prior to use in their acoustic analysis for the current rulemaking process.

To accurately assess the potential effects of SURTASS LFA sonar activities, the Navy selected 15 representative modeling sites covering the spatial extent of the Study Area to provide representative regional coverage (see figure 1.1–1 of the Density Technical Report). Three of the SURTASS modeling sites overlap other Navy study areas: Two of the SURTASS modeling sites (10 and 11) overlap the Hawaii portion of the Hawaii-California Training and Testing (HCTT) Phase IV Study Area and one modeling site (4) is encompassed within the Mariana Islands Training and Testing (MITT) Phase IV Study Area. Marine mammal density estimates used for the recent Phase IV HCTT (U.S. Department of the Navy, 2025a/b/c) and MITT (U.S. Department of the Navy, *in prep.*) environmental planning analyses were also used by the Navy for these three SURTASS modeling sites as they represent the best available density data for these regions.

A variety of density data and density models are needed to develop a density database that encompasses the entirety of the Study Area. Because these data are collected using different methods with varying amounts of accuracy and uncertainty, the Navy has developed a hierarchy to ensure the most accurate data are used when available. The Density Technical Report describes these models in detail and provides detailed explanations of the best available density estimate for each species. The list below describes possible sources of density data in order of preference for cetaceans in the Study Area:

1. Density spatial models are preferred and used when available because they provide spatially-explicit density estimates (typically at 10 km by 10 km spatial resolution) throughout the study area with the least amount of uncertainty. These models (see Becker *et al.*, 2022a, Becker *et al.*, 2022b, Becker *et al.*, 2021, Bradford *et al.*, 2021) predict spatial variability of animal density based on habitat variables (*e.g.*, sea surface temperature, seafloor depth, *etc.*). Density spatial models are developed for areas, species, and, when available, specific timeframes (*e.g.*, months or seasons) with sufficient survey data; therefore, these models cannot be used for species with low numbers of sightings.

2. Stratified design-based density estimates use line-transect survey data with the sampling area divided (*i.e.*, stratified) into sub-regions, and a density is derived for each sub-region (see Barlow, 2016; Barlow and Forney, 2007; Bradford *et al.*, 2021). While geographically stratified density estimates provide a better indication of a species' distribution within the study area, the uncertainty is typically high because each sub-region estimate is based on a smaller stratified segment of the overall survey effort.

3. Design-based density estimations use line-transect survey data collected from ship or aerial surveys designed to cover a specific geographic area (see Carretta *et al.*, 2024). These estimates use the same survey data as stratified design-based estimates but are not segmented into sub-regions, instead providing one estimate for a large, surveyed area.

When interpreting the results of the quantitative analysis, the description provided in a previous technical report, the Density Technical Report for the Phase III Atlantic Fleet Training and Testing Study Area (U.S. Department of the Navy, 2017a), includes a useful reminder: "It is important to consider that even the best estimate of marine species density is really a model representation of the values of concentration where these animals might occur. Each model is limited to the variables and assumptions considered by the original data source provider. No mathematical model representation of any biological population is perfect and with regards to marine species biodiversity, any single model method will not completely explain the actual distribution and abundance of marine mammal species. It is expected that there would be anomalies in the results that need to be evaluated, with independent information for each case, to support if we might accept or reject a model or portions of the model."

For pinnipeds, density estimates are not model based and are essentially calculated as an in-water abundance divided by an area. Densities for pinnipeds relied on published data on the abundance, occurrence, and distribution of the species, including data from telemetry studies when available, that enabled the Navy to define spatial strata with greater precision and to better represent species' distribution than in previous analyses.

Except for Hawaiian monk seal, pinniped occurrence in the Study Area is likely only at or near the more northerly sites (1, 2, 5, 8, and 15).

Furthermore, the offshore distribution of several pinniped species with potential occurrence at the northern sites is limited to areas over the continental shelf or is closely tied to the sea ice front and its seasonal progression in the Bering Sea and Sea of Okhotsk. As such, occurrence inside the 250-km buffer defining each site is unlikely or considered extralimital for some species that may occur at the same latitude but inshore of a particular site. For example, spotted seals have a range that extends as far south as Japan (Boveng *et al.*, 2009) and approaches the latitude of site 2; however, their distribution is limited to waters over the continental shelf closer to shore and they are not expected to occur inside the 250 km buffer defining site 2.

Chernook *et al.* (2018) derived spatially explicit densities and estimated abundances for four ice-associated seals off the Kamchatka Peninsula, Russia located west of site 15. The seals (ringed, ribbon, spotted, and bearded) haulout on sea ice in winter and spring when the ice extent is farthest south for pupping, breeding, and molting, depending on the species. Once the ice breaks up and recedes northward, some species haulout on land, others become pelagic in the Bering Sea and Aleutian Islands, and some follow the ice north and remain in the northern Bering Sea and Arctic region. The distribution of seals occupying the Kamchatka Peninsula and nearshore waters in winter and

spring remain over the shelf and slope extending from shore to about the 1,000 m depth contour, which is shoreward of the 250 km buffer at site 15. While the densities derived by Chernook *et al.* (2018) are informative, they are not applicable to site 15. Once the sea ice recedes northward in summer, only ribbon seals are expected to be pelagic and occurring within site 15.

Temporal variations in species-specific distribution patterns were incorporated into density estimates to more accurately match pinniped migration and haul-out behaviors that are unique to each species. This resulted in some species' in-water distributions varying by breeding and non-breeding seasons instead of the traditional winter, spring, summer, and fall seasons. Spatial strata to represent the species' seasonal distribution in the density calculation were developed for each species based on published data on habitat preferences and species range maps. The primary factors used to define spatial strata were bathymetry and distance from shore.

The Navy's estimates of abundance (based on density estimates used in the Study Area) are limited to those species or stocks with a stock designation under NMFS' SARs. For some species, the stock assessment for a given species may exceed the Navy's density prediction because those species' home range extends beyond the study area boundaries. For most species in the Study Area, the stock assessment

abundance may be much less than the number of animals in the Navy's modeling given that the Study Area extends beyond the U.S. waters covered by the SAR abundance estimate. The primary source of density estimates are geographically specific survey data and either peer-reviewed line-transect estimates or habitat-based density models that have been extensively validated to provide the most accurate estimates possible.

Table 7 through 50 summarize the seasonal density estimates of the marine mammal species and stocks that have confirmed or possible occurrence within the 15 SURTASS LFA sonar modeling areas in the central and western North Pacific Ocean and eastern Indian Ocean. Given that substantial acoustic effects (PTS or auditory injury) would occur closest to the SURTASS LFA sound source, the Navy applied a 250 km buffer around the center of each modeling site to focus on the areas where the most serious impacts and likely the majority of less serious impacts (*e.g.*, behavioral disturbance, including TTS) would occur. This assumption is based on the 1.8 km LFA mitigation zone presented in the 2019 SURTASS SEIS/OEIS (U.S. Department of the Navy, 2019), which is intended to encompass the range to effects for Level A harassment (PTS and AUD INJ) for all species.

BILLING CODE 3510-22-P

Table 7 -- Summary of Density Values for North Pacific Right Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00014	0.00004	0.00004	0.00014
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0.00014	0.00004	0.00004	0.00014

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 8 -- Summary of Density Values for Blue Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00006	0.00034	0.00034	0.00006
Modeling Site 2	0.00006	0.00034	0.00034	0.00006
Modeling Site 3	0.00006	0.00006	0.00006	0.00006
Modeling Site 4	0.00006	0	0.00006	0.00006
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00006	0.00006	0.00006	0.00006
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00006	0.00034	0.00034	0.00006
Modeling Site 9	0.00006	0	0.00006	0.00006
Modeling Site 10	0.00006	0	0.00006	0.00006
Modeling Site 11	0.00006	0	0.00006	0.00006
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0.00006	0.00034	0.00034	0.00006

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 9 -- Summary of Density Values for Bryde's Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00065	0.00468	0.00468	0.00065
Modeling Site 2	0.00065	0.00468	0.00468	0.00065
Modeling Site 3	0.0003	0.0003	0.0003	0.0003
Modeling Site 4	0.00041	0.00041	0.00041	0.00041
Modeling Site 5	0.00065	0.00468	0.00468	0.00065
Modeling Site 6	0.0003	0.0003	0.0003	0.0003
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00065	0.00468	0.00468	0.00065
Modeling Site 9	0.00041	0.00041	0.00041	0.00041
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 10 -- Summary of Density Values for Fin Whale in each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00048	0.00139	0.00139	0.00048
Modeling Site 2	0.00048	0.00139	0.00139	0.00048
Modeling Site 3	0.00008	0.00008	0.00008	0.00008
Modeling Site 4	0.00008	0	0.00008	0.00008
Modeling Site 5	0.00048	0.00139	0.00139	0.00048
Modeling Site 6	0.00008	0.00008	0.00008	0.00008
Modeling Site 7	S	0	0	S
Modeling Site 8	0.00048	0.00139	0.00139	0.00048
Modeling Site 9	0.00008	0	0.00008	0.00008
Modeling Site 10	0.00008	0	0.00008	0.00008
Modeling Site 11	0.00008	0	0.00008	0.00008
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	S	S	0
Modeling Site 15	0.00048	0.00139	0.00139	0.00048

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 11 -- Summary of Density Values for Humpback Whale in each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00068	0.00014	0.00014	0.00068
Modeling Site 2	0.00068	0.00014	0.00014	0.00068
Modeling Site 3	0.00089	0.00089	0.00089	0.00089
Modeling Site 4	S	0	S	S
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00089	0.00089	0.00089	0.00089
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00068	0.00014	0.00014	0.00068
Modeling Site 9	0.00089	0	0.00089	0.00089
Modeling Site 10	S	0	S	S
Modeling Site 11	S	0	S	S
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	S	S	S	S
Modeling Site 15	0.00068	0.00014	0.00014	0.00068

Notes: The units for numerical values are animals/km². S = spatial model or stratified estimates with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 12 -- Summary of Density Values for Antarctic Minke Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 13 -- Summary of Density Values for Common Minke Whale in each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00075	0.00108	0.00108	0.00075
Modeling Site 2	0.00075	0.00108	0.00108	0.00075
Modeling Site 3	0.00663	0.00663	0.00663	0.00663
Modeling Site 4	0.00015	0	0.00015	0.00015
Modeling Site 5	0.00663	0.00663	0.00663	0.00663
Modeling Site 6	0.00663	0.00663	0.00663	0.00663
Modeling Site 7	S	0	0	S
Modeling Site 8	0.00075	0.00108	0.00108	0.00075
Modeling Site 9	0.00015	0	0.00015	0.00015
Modeling Site 10	0.00018	0	0.00018	0.00018
Modeling Site 11	0.00018	0	0.00018	0.00018
Modeling Site 12	S	0	0	S
Modeling Site 13	S	0	0	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0.00075	0.00108	0.00108	0.00075

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 14 -- Summary of Density Values for Omura's Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0.00027	0.00027	0.00027	0.00027
Modeling Site 3	0.00003	0.00003	0.00003	0.00003
Modeling Site 4	0.00004	0.00004	0.00004	0.00004
Modeling Site 5	0.00027	0.00027	0.00027	0.00027
Modeling Site 6	0.00003	0.00003	0.00003	0.00003
Modeling Site 7	S	S	S	S
Modeling Site 8	0	0	0	0
Modeling Site 9	0.00004	0.00004	0.00004	0.00004
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 15 -- Summary of Density Values for Sei Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00105	0.00179	0.00179	0.00105
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0.00029	0	0.00029	0.00029
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0.00105	0.00179	0.00179	0.00105
Modeling Site 9	0.00029	0	0.00029	0.00029
Modeling Site 10	0.00016	0	0.00016	0.00016
Modeling Site 11	0.00016	0	0.00016	0.00016
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	S	S	S	S
Modeling Site 15	0.00105	0.00179	0.00179	0.00105

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 16 -- Summary of Density Values for Sperm Whale in each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00174	0.00174	0.00174	0.00174
Modeling Site 2	0.00174	0.00174	0.00174	0.00174
Modeling Site 3	0.00174	0.00174	0.00174	0.00174
Modeling Site 4	0.0162	0.0162	0.0162	0.0162
Modeling Site 5	0.00174	0.00174	0.00174	0.00174
Modeling Site 6	0.00174	0.00174	0.00174	0.00174
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00174	0.00174	0.00174	0.00174
Modeling Site 9	0.0162	0.0162	0.0162	0.0162
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	0.00236	0.00236	0.00236	0.00236
Modeling Site 15	0.00174	0.00174	0.00174	0.00174

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 17 -- Summary of Density Values for Dwarf Sperm Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.0153	0.0153	0.0153	0.0153
Modeling Site 2	0.0153	0.0153	0.0153	0.0153
Modeling Site 3	0.0153	0.0153	0.0153	0.0153
Modeling Site 4	0.0153	0.0153	0.0153	0.0153
Modeling Site 5	0.0153	0.0153	0.0153	0.0153
Modeling Site 6	0.0153	0.0153	0.0153	0.0153
Modeling Site 7	S	S	S	S
Modeling Site 8	0.0153	0.0153	0.0153	0.0153
Modeling Site 9	0.0153	0.0153	0.0153	0.0153
Modeling Site 10	0.0153	0.0153	0.0153	0.0153
Modeling Site 11	0.0153	0.0153	0.0153	0.0153
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 18 -- Summary of Density Values for Pygmy Sperm Whale in each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.01719	0.01719	0.01719	0.01719
Modeling Site 2	0.01719	0.01719	0.01719	0.01719
Modeling Site 3	0.01719	0.01719	0.01719	0.01719
Modeling Site 4	0.01719	0.01719	0.01719	0.01719
Modeling Site 5	0.01719	0.01719	0.01719	0.01719
Modeling Site 6	0.01719	0.01719	0.01719	0.01719
Modeling Site 7	S	S	S	S
Modeling Site 8	0.01719	0.01719	0.01719	0.01719
Modeling Site 9	0.01719	0.01719	0.01719	0.01719
Modeling Site 10	0.01719	0.01719	0.01719	0.01719
Modeling Site 11	0.01719	0.01719	0.01719	0.01719
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 19 -- Summary of Density Values for Baird's Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.02338	0.02338	0.02338	0.02338
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0.0178	0.0178	0.0178	0.0178
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0.02338	0.02338	0.02338	0.02338
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0.02338	0.02338	0.02338	0.02338

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 20 -- Summary of Density Values for Blainville's Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0.00046	0.00046	0.00046	0.00046
Modeling Site 3	0.00046	0.00046	0.00046	0.00046
Modeling Site 4 (north of 15.5 °N)	0.0285	0.0285	0.0285	0.0285
Modeling Site 4 (south of 15.5 °N)	0.00415	0.00415	0.00415	0.00415
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00046	0.00046	0.00046	0.00046
Modeling Site 7	0	S	S	S
Modeling Site 8	0.00046	0.00046	0.00046	0.00046
Modeling Site 9 (north of 15.5 °N)	0.0285	0.0285	0.0285	0.0285
Modeling Site 9 (south of 15.5 °N)	0.00415	0.00415	0.00415	0.00415
Modeling Site 10	0.00046	0.00046	0.00046	0.00046
Modeling Site 11	0.00046	0.00046	0.00046	0.00046
Modeling Site 12	0	S	S	S
Modeling Site 13	0	S	S	S
Modeling Site 14	0	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 21 -- Summary of Density Values for Deraniyagala's Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0.00119	0.00119	0.00119	0.00119
Modeling Site 4	0.00119	0.00119	0.00119	0.00119
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	S	S	S	S
Modeling Site 8	0	0	0	0
Modeling Site 9	0.00119	0.00119	0.00119	0.00119
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 22 -- Summary of Density Values for Ginkgo-Toothed Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00119	0.00119	0.00119	0.00119
Modeling Site 2	0.00119	0.00119	0.00119	0.00119
Modeling Site 3	0.00119	0.00119	0.00119	0.00119
Modeling Site 4	0.00119	0.00119	0.00119	0.00119
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00119	0.00119	0.00119	0.00119
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00119	0.00119	0.00119	0.00119
Modeling Site 9	0.00119	0.00119	0.00119	0.00119
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 23 -- Summary of Density Values for Goose-Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00181	0.00181	0.00181	0.00181
Modeling Site 2	0.00181	0.00181	0.00181	0.00181
Modeling Site 3	0.00181	0.00181	0.00181	0.00181
Modeling Site 4 (north of 15.5 °N)	0.00872	0.00872	0.00872	0.00872
Modeling Site 4 (south of 15.5 °N)	0.00478	0.00478	0.00478	0.00478
Modeling Site 5	0.00181	0.00181	0.00181	0.00181
Modeling Site 6	0.00181	0.00181	0.00181	0.00181
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00181	0.00181	0.00181	0.00181
Modeling Site 9 (north of 15.5 °N)	0.00872	0.00872	0.00872	0.00872
Modeling Site 9 (south of 15.5 °N)	0.00478	0.00478	0.00478	0.00478
Modeling Site 10	0.00181	0.00181	0.00181	0.00181
Modeling Site 11	0.00181	0.00181	0.00181	0.00181
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0.0021	0.0021	0.0021	0.0021

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 24 -- Summary of Density Values for Hubbs' Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00267	0.00267	0.00267	0.00267
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0.00267	0.00267	0.00267	0.00267
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 25 -- Summary of Density Values for Longman's Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0.00104	0.00104	0.00104	0.00104
Modeling Site 3	0.00104	0.00104	0.00104	0.00104
Modeling Site 4	0.0075	0.0075	0.0075	0.0075
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00104	0.00104	0.00104	0.00104
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00104	0.00104	0.00104	0.00104
Modeling Site 9	0.0075	0.0075	0.0075	0.0075
Modeling Site 10	0.00104	0.00104	0.00104	0.00104
Modeling Site 11	0.00104	0.00104	0.00104	0.00104
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 26 -- Summary of Density Values for Stejneger's Beaked Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00267	0.00267	0.00267	0.00267
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0.00267	0.00267	0.00267	0.00267
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0.00267	0.00267	0.00267	0.00267
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0.00118	0.00118	0.00118	0.00118

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 27 -- Summary of Density Values for False Killer Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.00109	0.00109	0.00109	0.00109
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11 Hawaii Pelagic Stock	S	S	S	S
Modeling Site 11 Main Hawaiian Islands Insular Stock (range specific)	0.00057	0.00057	0.00057	0.00057
Modeling Site 11 Northwestern Hawaiian Islands Stock (range specific)	0.00106	0.00106	0.00106	0.00106
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 28 -- Summary of Density Values for Killer Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.00007	0.00007	0.00007	0.00007
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	0.00007	0.00007	0.00007	0.00007
Modeling Site 11	0.00007	0.00007	0.00007	0.00007
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	0.001	0.001	0.001	0.001
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 29 -- Summary of Density Values for Melon-Headed Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.00428	0.00428	0.00428	0.00428
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	0.01661	0.01661	0.01661	0.01661
Modeling Site 11	0.01661	0.01661	0.01661	0.01661
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 30 -- Summary of Density Values for Pygmy Killer Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.00255	0.00255	0.00255	0.00255
Modeling Site 2	0.00255	0.00255	0.00255	0.00255
Modeling Site 3	0.00255	0.00255	0.00255	0.00255
Modeling Site 4	0.0448	0.0448	0.0448	0.0448
Modeling Site 5	0	0	0	0
Modeling Site 6	0.00255	0.00255	0.00255	0.00255
Modeling Site 7	S	S	S	S
Modeling Site 8	0.00255	0.00255	0.00255	0.00255
Modeling Site 9	0.0448	0.0448	0.0448	0.0448
Modeling Site 10	0.00422	0.00422	0.00422	0.00422
Modeling Site 11	0.00422	0.00422	0.00422	0.00422
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 31 -- Summary of Density Values for Short-Finned Pilot Whale in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.0123	0.0123	0.0123	0.0123
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 32 -- Summary of Density Values for Bottlenose Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.0185	0.0185	0.0185	0.0185
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11 Oahu Stock (range specific)	0.0282	0.0282	0.0282	0.0282
Modeling Site 11 Maui Nui Stock (range specific)	0.0058	0.0058	0.0058	0.0058
Modeling Site 11 Kauai/Niihau Stock (range specific)	0.0397	0.0397	0.0397	0.0397
Modeling Site 11 Hawaii Island Stock (range specific)	0.0292	0.0292	0.0292	0.0292
Modeling Site 11 Hawaii Pelagic Stock (range specific)	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 33 -- Summary of Density Values for Common Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0	0	0	0
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	0	0	0	0
Modeling Site 8	S	S	S	S
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 34 -- Summary of Density Values for Fraser's Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0.01233	0.01233	0.01233	0.01233
Modeling Site 3	0.01233	0.01233	0.01233	0.01233
Modeling Site 4	0.01673	0.01673	0.01673	0.01673
Modeling Site 5	0	0	0	0
Modeling Site 6	0.01233	0.01233	0.01233	0.01233
Modeling Site 7	S	S	S	S
Modeling Site 8	0	0	0	0
Modeling Site 9	0.01233	0.01233	0.01233	0.01233
Modeling Site 10	0.01673	0.01673	0.01673	0.01673
Modeling Site 11	0.01673	0.01673	0.01673	0.01673
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 35 -- Summary of Density Values for Northern Right Whale Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	S	S	S	S
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 36 -- Summary of Density Values for Pacific White-Sided Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	0	0	0	0
Modeling Site 8	S	S	S	S
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 37 -- Summary of Density Values for Pantropical Spotted Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	S	S	S	S
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11 Insular Stocks (range specific)	S	S	S	S
Modeling Site 11 Hawaii Pelagic Stock	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 38 -- Summary of Density Values for Risso's Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.0025	0.0025	0.0025	0.0025
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 39 -- Summary of Density Values for Rough-Toothed Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	0.0954	0.0954	0.0954	0.0954
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 40 -- Summary of Density Values for Spinner Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	S	S	S	S
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11 Hawaii Island Stock (range specific)	0.07	0.07	0.07	0.07
Modeling Site 11 Oahu/Maui Nui Stock (range specific)	0.023	0.023	0.023	0.023
Modeling Site 11 Kauai/Niihau Stock (range specific)	0.097	0.097	0.097	0.097
Modeling Site 11 Hawaii Pelagic Stock	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 41 -- Summary of Density Values for Striped Dolphin in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	S	S	S	S
Modeling Site 3	S	S	S	S
Modeling Site 4	S	S	S	S
Modeling Site 5	S	S	S	S
Modeling Site 6	S	S	S	S
Modeling Site 7	S	S	S	S
Modeling Site 8	S	S	S	S
Modeling Site 9	S	S	S	S
Modeling Site 10	S	S	S	S
Modeling Site 11	S	S	S	S
Modeling Site 12	S	S	S	S
Modeling Site 13	S	S	S	S
Modeling Site 14	S	S	S	S
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 42 -- Summary of Density Values for Dall's Porpoise in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	S	S	S	S
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	S	S	S	S
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	S	S	S	S
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 43 -- Summary of Density Values for Northern Fur Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0.01525	0	0	0.01525
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0.1577	0	0	0.368
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0.01525	0	0	0.01525

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 44 -- Summary of Density Values for Steller Sea Lion in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere. See Burkanov and Loughlin (2005), Holmes *et al.* (2007), and Trites (2021) for more information.

Table 45 -- Summary of Density Values for Bearded Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	0	0	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere. See Chernook *et al.* (2018) for more information.

Table 46 -- Summary of Density Values for Harbor Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	S	S	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere. See Blanchet *et al.* (2021) and Jefferson *et al.* (2015) for more information.

Table 47 -- Summary of Density Values for Ribbon Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0.0871	0.0871	0.0871

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 48 -- Summary of Density Values for Hawaiian Monk Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0.00003	0.00003	0.00003	0.00003
Modeling Site 11	S	S	S	S
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². S = multiple density values throughout the site. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

Table 49 -- Summary of Density Values for Ringed Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0	0	0	0
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	S	0	0	S

Notes: The units for numerical values are animals/km². S = spatial model with various density values throughout the range. Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere. See Chernook *et al.* (2018) for more information.

Table 50 -- Summary of Density Values for Spotted Seal in Each of the SURTASS LFA Modeling Sites

Location	Spring	Summer	Fall	Winter
Modeling Site 1	0	0	0	0
Modeling Site 2	0	0	0	0
Modeling Site 3	0	0	0	0
Modeling Site 4	0	0	0	0
Modeling Site 5	0.134	0.0447	0.134	0.134
Modeling Site 6	0	0	0	0
Modeling Site 7	0	0	0	0
Modeling Site 8	0	0	0	0
Modeling Site 9	0	0	0	0
Modeling Site 10	0	0	0	0
Modeling Site 11	0	0	0	0
Modeling Site 12	0	0	0	0
Modeling Site 13	0	0	0	0
Modeling Site 14	0	0	0	0
Modeling Site 15	0	0	0	0

Notes: The units for numerical values are animals/km². Spring = March through May, Summer = June through August, Fall = September through November, Winter = December through February, regardless of hemisphere.

BILLING CODE 3510-22-C

NMFS coordinated with the Navy in the development of its take estimates and concurs that the Navy's approach for density appropriately utilizes the best available science. Later, in the Preliminary Analysis and Negligible Impact Determination section, we assess how the estimated take numbers compare to stock abundance in order to better understand the potential number of individuals impacted, and the rationale for which abundance estimate is used is included there.

Estimated Take From Acoustic Stressors

The 2025 SURTASS Draft SEIS/OEIS considered all SURTASS LFA sonar activities proposed to occur in the Study Area that have the potential to result in the MMPA defined take of marine mammals. The Navy determined that the only stressors that could result in the incidental taking of marine mammals are acoustic (*i.e.*, sonars). NMFS has reviewed the Navy's data and analysis and determined that it is complete and accurate and agrees that acoustic stressors have the potential to result in take by harassment of marine mammals from the specified activities. The estimated take discussed herein would result primarily from marine mammal exposure to SURTASS LFA sonar given the slower attenuation and long distance that the sound would

propagate in comparison to the HF/M3 sonar that would operate simultaneously.

The Navy is seeking authorization to take marine mammals incidental to 1,100 hours of SURTASS LFA sonar training per year, which is an increase from the 592 hours estimated for the 2019 regulations; however, this increase does not reflect new or additional training requirements. Instead, it is the result of a change in how the Navy counts an "hour" of transmission. Previously, SURTASS LFA sonar hours were calculated by adding the portions of time a sonar emits sound during its "duty cycle" (ratio of time the signal is on compared to off). Other Navy sonar systems, such as mid-frequency and high-frequency active sonar, calculate hours based on total "duration" time (total time the source is active, including silent periods between pings). To bring SURTASS LFA sonar in line with these other sonar systems, the Navy developed a conversion method that considers various factors including LFA sonar pings, wave trains, and other classified considerations. As a result, the 1,100 hours of annual SURTASS LFA training requested are equivalent to the 592 hours authorized under the previous counting method.

The quantitative analysis process used for the 2025 SURTASS Draft SEIS/

OEIS and the application to estimate potential exposures to marine mammals resulting from acoustic stressors is detailed in the Acoustic Impacts Technical Report.

Regarding how avoidance of loud sources is considered in the take estimation, NAEMO does not simulate horizontal animal (*i.e.*, a virtual animal) movement during an event. However, NAEMO approximates marine mammal avoidance of high sound levels due to exposure to sonars in a one-dimensional calculation that scales how far an animal would be from a sound source based on sensitivity to disturbance, swim speed, and avoidance duration. This process reduces the SEL, defined as the accumulation for a given animal, by reducing the received SPL of individual exposures based on a spherical spreading calculation from sources on each unique platform in an event. The onset of avoidance was based on the behavioral response functions. Avoidance speeds and durations were informed by a review of available exposure and baseline data. This method captures a more accurate representation of avoidance by using the received sound levels, distance to platform, and species-specific criteria to calculate potential avoidance for each animal than the previous approach for SURTASS LFA sonar modeling using

AIM. However, this avoidance method may underestimate avoidance of long-duration sources with lower sound levels because it triggers avoidance calculations based on the highest modeled SPL received level exceeding p(0.5) on the BRF, rather than on cumulative exposure. This is because initiation of the avoidance calculation is based on the highest modeled SPL received level over p(0.5) on the BRF. Please see section 4.4.2.2 of the Acoustic Impacts Technical Report.

The ability to reduce cumulative SEL depends on susceptibility to auditory effects, sensitivity to behavioral disturbance, and characteristics of the sonar source, including duty cycle, source level, and frequency. Table 2–2 of appendix B to the application shows the percentage reduction of AUD INJ across the modeled activities in this analysis due to avoidance. The reduction in AUD INJ due to avoidance differs across the proposed action and between auditory and behavioral groups. Groups that are relatively less sensitive to behavioral disturbance compared to susceptibility to auditory effects are less likely to avoid AUD INJ, which include the mysticete and odontocete behavioral groups. Groups that are relatively more sensitive to behavioral disturbance compared to susceptibility to auditory effects are more likely to avoid AUD INJ, which include the Sensitive Species and Pinniped behavioral groups. The reduction in AUD INJ for most groups is less than assumed in prior analyses. Avoidance was able to be applied only for pinnipeds. It is likely that no reduction of AUD INJ could be applied to any other hearing group due to the high source level and low frequency of the SURTASS LFA.

Regarding the consideration of mitigation effectiveness in the take estimation, this quantitative analysis does not reduce model-estimated impacts to account for activity-based mitigation. While the activity-based mitigation is not quantitatively included in the take estimates (which, of note, would result in a reduction in the number of takes), section 2.3.2 of appendix B of the application indicates the percentage of the instances of take where an animal's closest point of approach was within a mitigation zone and, therefore, AUD INJ could potentially be mitigated. Only mysticetes in the VLF and LF hearing groups have at least one model-predicted AUD INJ. The potential mitigation opportunities for VLF and LF hearing groups during SURTASS LFA

training and testing activities are 5 percent and 8 percent, respectively. Note that these percentages do not account for other factors, such as the sightability of a given species or viewing conditions.

For additional information on the quantitative analysis process, refer to the Acoustic Impacts Technical Report and appendices B and C of the application.

As a general matter, NMFS does not prescribe the methods for estimating take for any applicant, but we review and ensure that applicants use the best available science, and methodologies that are logical and technically sound. Applicants may use different methods of calculating take (especially when using models) and still get to a result that is representative of the best available science and that allows for a rigorous and accurate evaluation of the effects on the affected populations. There are multiple pieces of the Navy's take estimation methods (e.g., propagation models, animat movement models, and behavioral thresholds). NMFS evaluates the acceptability of these pieces as they evolve and are used in different rules and impact analyses. Some of the pieces of the Navy's take estimation process have been used in Navy incidental take rules since 2009 and have undergone multiple public comment processes. All of them have undergone extensive internal Navy review and comprehensive review by NMFS, which has sometimes resulted in modifications to methods or models.

The Navy uses rigorous review processes (i.e., verification, validation, and accreditation processes; peer and public review) to ensure the data and methodology it uses represent the best available science. For instance, NAEMO is the result of a NMFS-led Center for Independent Experts review of the components used in earlier models. The acoustic propagation component of NAEMO (titled CASS/GRAB) is accredited by the Oceanographic and Atmospheric Master Library (OAML), and many of the environmental variables used in NAEMO come from approved OAML databases and are based on in-situ data collection. The animal density components of NAEMO are base products of the NMSDD, which include animal density components that have been validated and reviewed by a variety of scientists from NMFS Science Centers and academic institutions. Several components of the model, for example, habitat-based density model results for species off Hawaii and California, have been published in

several peer-reviewed journals (Becker *et al.*, 2020; Becker *et al.*, 2021; Becker *et al.*, 2022a; Becker *et al.*, 2022b). Additionally, NAEMO simulation components underwent quality assurance and quality control (QA/QC) review and validation for model parts (the scenario builder, acoustic builder, scenario simulator, *etc.*), conducted by qualified statisticians and modelers to ensure accuracy. Other models and methodologies have gone through similar review processes.

In summary, we believe the Navy's methods, including the method for incorporating avoidance, are the most appropriate methods for predicting AUD INJ, non-auditory injury, TTS, and behavioral disturbance. But even with the consideration of avoidance, given some of the more conservative components of the methodology (e.g., the thresholds do not consider ear recovery between pulses), we would describe the application of these methods as identifying the maximum number of instances in which marine mammals would be reasonably expected to be taken through AUD INJ, non-auditory injury, TTS, or behavioral disturbance.

The Navy does not expect physical or non-auditory injury or mortality to any of the marine mammal species in the Study Area due to the proposed activities; therefore, it is not further discussed. Additionally, masking effects from vessel noise during the operation of T-AGOS vessels are not expected to qualify as take.

Based on the methods discussed in the previous sections and NAEMO, the Navy provided their take estimate and request for authorization of takes incidental to the use of acoustic sources for military readiness activities annually (based on the maximum number of activities that could occur per 12-month period) and over the 7-year period, covered by the application. NMFS agrees that the estimates for incidental takes by harassment from SURTASS LFA sonar sources requested for authorization are the maximum number of instances in which marine mammals are reasonably expected to be taken.

Table 51 summarizes the maximum annual and 7-year total amount and type of Level A harassment and Level B harassment that NMFS concurs is reasonably expected to occur by species or stock for SURTASS training and testing activities.

BILLING CODE 3510-22-P

Table 51 -- Total Annual and 7-year Incidental Take Proposed by Species or Stock by Harassment Type

Species	Stock	Maximum annual Level B harassment	Maximum annual Level A harassment	7-year total Level B harassment	7-year total Level A harassment
North Pacific right whale	NSD	325	2	2,271	11
Blue whale	NSD	1,062	3	7,426	21
Blue whale	Central North Pacific	13	-	83	-
Bryde's whale	NSD	816	1	5,708	5
Bryde's whale	Hawaii	7	-	41	-
Fin whale	NSD	5,738	32	40,165	218
Fin whale	Hawaii	16	-	111	-
Humpback whale	NSD	3	-	13	-
Humpback whale	Hawaii	13	-	79	-
Humpback whale	Western North Pacific	1,133	4	7,926	24
Antarctic minke whale	NSD	48	-	327	-
Minke whale	NSD	3,020	6	21,135	42
Minke whale	Hawaii	3	-	15	-
Omura's whale	NSD	217	1	1,513	3
Sei whale	NSD	2,021	9	14,140	58
Sei whale	Hawaii	5	1	30	1
Sperm whale	NSD	37	-	253	-
Sperm whale	North Pacific	225	-	1,569	-
Sperm whale	Hawaii	15	-	101	-
Dwarf sperm whale	NSD	719	-	5,025	-
Dwarf sperm whale	Hawaii	151	-	1,056	-
Pygmy sperm whale	NSD	864	-	6,039	-

Species	Stock	Maximum annual Level B harassment	Maximum annual Level A harassment	7-year total Level B harassment	7-year total Level A harassment
Pygmy sperm whale	Hawaii	152	-	1,058	-
Baird's beaked whale	NSD	64,875	-	454,121	-
Blainville's beaked whale	NSD	61,964	-	433,748	-
Blainville's beaked whale	Hawaii	2,073	-	14,511	-
Deraniyagala's beaked whale	NSD	9,448	-	66,130	-
Ginkgo-toothed beaked whale	NSD	30,342	-	212,384	-
Goose-beaked whale	NSD	111,485	-	780,389	-
Goose-beaked whale	Hawaii	9,185	-	64,291	-
Hubbs' beaked whale	CWP/EIO NSD	25,289	-	177,021	-
Longman's beaked whale	CWP/EIO NSD	69,988	-	489,908	-
Longman's beaked whale	Hawaii	5,017	-	35,116	-
Stejneger's beaked whale	NSD	37,258	-	260,803	-
False killer whale	NSD	60	-	420	-
False killer whale	Main Hawaiian Islands Insular	1	-	1	-
False killer whale	Hawaii Pelagic	7	-	49	-
Killer whale	NSD	173	-	1,206	-
Killer whale	Hawaii	1	-	4	-
Melon-headed whale	NSD	537	-	3,749	-
Melon-headed whale	Hawaiian Islands	107	-	749	-
Pygmy killer whale	NSD	318	-	2,214	-
Pygmy killer whale	Hawaii	32	-	218	-
Short-finned pilot whale	NSD	1,083	-	7,579	-
Short-finned pilot whale	Hawaii	76	-	528	-

Species	Stock	Maximum annual Level B harassment	Maximum annual Level A harassment	7-year total Level B harassment	7-year total Level A harassment
Bottlenose dolphin	NSD	1,901	-	13,299	-
Bottlenose dolphin	Hawaii Pelagic	32	-	215	-
Common dolphin	NSD	1,713	-	11,987	-
Fraser's dolphin	NSD	465	-	3,247	-
Fraser's dolphin	Hawaii	152	-	1,056	-
Northern right whale dolphin	NSD	10	-	67	-
Pacific white-sided dolphin	North Pacific	49	-	342	-
Pantropical spotted dolphin	NSD	2,785	-	19,490	-
Pantropical spotted dolphin	Hawaii Pelagic	233	-	1,626	-
Risso's dolphin	NSD	1,575	-	11,015	-
Risso's dolphin	Hawaii	38	-	262	-
Rough-toothed dolphin	NSD	508	-	3,555	-
Rough-toothed dolphin	Hawaii	299	-	2,092	-
Spinner dolphin	NSD	276	-	1,924	-
Spinner dolphin	Hawaii Pelagic	15	-	98	-
Striped dolphin	NSD	4,327	-	30,277	-
Striped dolphin	Hawaii Pelagic	200	-	1,393	-
Dall's porpoise	NSD	3,020	-	21,130	-
Northern fur seal	NSD	1,296	-	9,067	-
Steller sea lion	Western	1	-	2	-
Bearded seal	Beringia	1	-	1	-
Harbor seal	California	1	-	1	-
Ribbon seal	NSD	37,650	1	263,550	2

Species	Stock	Maximum annual Level B harassment	Maximum annual Level A harassment	7-year total Level B harassment	7-year total Level A harassment
Hawaiian monk seal	Hawaii	1	-	7	-
Ringed seal	NSD	25	-	165	-
Spotted seal	Bering	71	-	487	-

Note: A stock or population listed as NSD is not a designated stock under the MMPA. Zero (0) impacts indicate total less than 0.5 and a dash (-) is a true zero. In some cases where the estimated take within a cell is equal to 1, that value has been rounded up from a value that is less than 0.5 to avoid underestimating potential impacts to a species or stock based on the 7-year rounding rules discussed in section 2.4 of appendix B (PAC SURTASS LFA Acoustic Analysis Report) of the application.

modeled marine mammal was “taken” through exposure to both TTS and behavioral disturbance in the model, it was recorded as a TTS. Of note, a higher proportion of the takes by Level B harassment of mysticetes include the potential for TTS (as compared to other taxa and prior rules) due to a combination of the fact that mysticetes are relatively less sensitive to direct behavioral disturbance and the number of auditory impacts from sonar (both TTS and AUD INJ) have increased for some species since the previous analysis (84 FR 40132, August 13, 2019) largely due to changes in both the acoustic

criteria and the modeling approach. We reiterate here that predicted exposures above TTS thresholds, characterized as TTS takes, could also include direct behavioral disturbance and, accordingly, the discussion of behavioral impacts in the Preliminary Analysis and Negligible Impact Determination section considers the total quantified TTS and direct behavioral disturbance takes.

Additionally, the updated Phase IV HF cetacean criteria reflect greater susceptibility to auditory effects at low and mid-frequencies than previously analyzed for the 2019 SURTASS final

rule. Consequently, the predicted auditory effects due to sources under 10 kHz, including SURTASS LFA sonar, are substantially higher for this auditory group than in prior analyses of the same activities. Thus, some modeled exposures that would previously have been categorized as significant behavioral responses may now instead be counted as auditory effects (TTS and AUD INJ). For VHF cetaceans, susceptibility to auditory effects has not changed substantially since the prior analysis.

BILLING CODE 3510-22-P

Table 52 -- Annual and 7-Year Estimated Take of Marine Mammal Species or Stock by Effect Type

Species	Stock	Maximum annual behavioral	Maximum annual TTS	Maximum annual AUD INJ	Maximum 7- year behavioral	Maximum 7- year TTS	Maximum 7- year AUD INJ
North Pacific right whale	NSD	0	325	2	0	2,271	11
Blue whale	NSD	1	1,061	3	4	7,422	21
Blue whale	Central North Pacific	1	12	-	1	82	-
Bryde's whale	NSD	17	799	1	115	5,593	5
Bryde's whale	Hawaii	1	6	-	5	36	-
Fin whale	NSD	2	5,736	32	13	40,152	218
Fin whale	Hawaii	0	16	-	0	111	-
Humpback whale	NSD	1	2	-	1	12	-
Humpback whale	Hawaii	2	11	-	8	71	-
Humpback whale	Western North Pacific	5	1,128	4	34	7,892	24
Antarctic minke whale	NSD	4	44	-	22	305	-
Minke whale	NSD	53	2,967	6	371	20,764	42
Minke whale	Hawaii	1	2	-	3	12	-
Omura's whale	NSD	1	216	1	7	1,506	3
Sei whale	NSD	5	2,016	9	34	14,106	58
Sei whale	Hawaii	1	4	1	2	28	1
Sperm whale	NSD	37	-	-	253	-	-
Sperm whale	North Pacific	224	1	-	1,568	1	-
Sperm whale	Hawaii	15	-	-	101	-	-
Dwarf sperm whale	NSD	718	1	-	5,024	1	-
Dwarf sperm whale	Hawaii	151	-	-	1,056	-	-
Pygmy sperm whale	NSD	863	1	-	6,037	2	-

Species	Stock	Maximum annual behavioral	Maximum annual TTS	Maximum annual AUD INJ	Maximum 7-year behavioral	Maximum 7-year TTS	Maximum 7-year AUD INJ
Pygmy sperm whale	Hawaii	151	1	-	1,057	1	-
Baird's beaked whale	NSD	64,875	0	-	454,121	0	-
Blainville's beaked whale	NSD	61,964	-	-	433,748	-	-
Blainville's beaked whale	Hawaii	2,073	-	-	14,511	-	-
Deraniyagala's beaked whale	NSD	9,448	-	-	66,130	-	-
Ginkgo-toothed beaked whale	NSD	30,341	1	-	212,383	1	-
Goose-beaked whale	NSD	111,484	1	-	780,388	1	-
Goose-beaked whale	Hawaii	9,185	-	-	64,291	-	-
Hubbs' beaked whale	NSD	25,289	-	-	177,021	-	-
Longman's beaked whale	NSD	69,987	1	-	489,906	2	-
Longman's beaked whale	Hawaii	5,017	-	-	35,116	-	-
Stejneger's beaked whale	NSD	37,258	-	-	260,803	-	-
False killer whale	NSD	60	-	-	420	-	-
False killer whale	Main Hawaiian Islands Insular	1	-	-	1	-	-
False killer whale	Hawaii Pelagic	7	-	-	49	-	-
Killer whale	NSD	172	1	-	1,200	6	-
Killer whale	Hawaii	1	-	-	4	-	-
Melon-headed whale	NSD	536	1	-	3,747	2	-
Melon-headed whale	Hawaiian Islands	107	-	-	749	-	-
Pygmy killer whale	NSD	317	1	-	2,213	1	-
Pygmy killer whale	Hawaii	32	-	-	218	-	-
Short-finned pilot whale	NSD	1,081	2	-	7,567	12	-

Species	Stock	Maximum annual behavioral	Maximum annual TTS	Maximum annual AUD INJ	Maximum 7-year behavioral	Maximum 7-year TTS	Maximum 7-year AUD INJ
Short-finned pilot whale	Hawaii	76	-	-	528	-	-
Bottlenose dolphin	NSD	1,897	4	-	13,276	23	-
Bottlenose dolphin	Hawaii Pelagic	31	1	-	213	2	-
Common dolphin	NSD	1,712	1	-	11,984	3	-
Fraser's dolphin	NSD	464	1	-	3,244	3	-
Fraser's dolphin	Hawaii	151	1	-	1,054	2	-
Northern right whale dolphin	NSD	10	-	-	67	-	-
Pacific white-sided dolphin	North Pacific	49	-	-	342	-	-
Pantropical spotted dolphin	NSD	2,784	1	-	19,485	5	-
Pantropical spotted dolphin	Hawaii Pelagic	233	-	-	1,626	-	-
Risso's dolphin	NSD	1,574	1	-	11,013	2	-
Risso's dolphin	Hawaii	38	-	-	262	-	-
Rough-toothed dolphin	NSD	508	-	-	3,555	-	-
Rough-toothed dolphin	Hawaii	299	-	-	2,092	-	-
Spinner dolphin	NSD	275	1	-	1,923	1	-
Spinner dolphin	Hawaii Pelagic	14	1	-	97	1	-
Striped dolphin	NSD	4,325	2	-	30,269	8	-
Striped dolphin	Hawaii Pelagic	199	1	-	1,391	2	-
Dall's porpoise	NSD	3,019	1	-	21,128	2	-
Northern fur seal	NSD	1,296	0	-	9,067	0	-
Steller sea lion	Western	1	-	-	2	-	-
Bearded seal	Beringia	1	-	-	1	-	-

Species	Stock	Maximum annual behavioral	Maximum annual TTS	Maximum annual AUD INJ	Maximum 7-year behavioral	Maximum 7-year TTS	Maximum 7-year AUD INJ
Harbor seal	California	1	-	-	1	-	-
Ribbon seal	NSD	3,376	34,274	1	23,632	239,918	2
Hawaiian monk seal	Hawaii	1	-	-	7	-	-
Ringed seal	NSD	24	1	-	164	1	-
Spotted seal	Bering	70	1	-	486	1	-

Note: A stock or population listed as NSD is not a designated stock under the MMPA. Zero (0) impacts indicate total less than 0.5 and a dash (-) is a true zero. In some cases where the estimated take within a cell is equal to 1, that value has been rounded up from a value that is less than 0.5 to avoid underestimating potential impacts to a species or stock based on the 7-year rounding rules discussed in section 2.4 of appendix B (PAC SURTASS LFA Acoustic Analysis Report) of the application.

BILLING CODE 3510-22-C

Proposed Mitigation Measures

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable adverse impact on the species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for subsistence uses (“least practicable adverse impact”). NMFS does not have a regulatory definition for least practicable adverse impact. The 2004 NDAA amended the MMPA as it relates to military readiness activities and the ITA process such that a determination of “least practicable adverse impact” shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. For additional discussion of NMFS’ interpretation of the least practicable adverse impact standard, see the Mitigation Measures section of the Gulf of Alaska Study Area final rule (88 FR 604, January 4, 2023).

Implementation of Least Practicable Adverse Impact Standard

Here, we discuss how we determine whether a measure or set of measures meets the “least practicable adverse impact” standard. Our separate analysis of whether the take anticipated to result from the Navy’s activities meets the “negligible impact” standard appears in the Preliminary Analysis and Negligible Impact Determination section below.

Our evaluation of potential mitigation measures includes consideration of two primary factors:

1. The manner in which, and the degree to which, implementation of the potential measure(s) is expected to reduce adverse impacts to marine mammal species or stocks, their habitat, or their availability for subsistence uses (where relevant). This analysis considers such things as the nature of the potential adverse impact (e.g., likelihood, scope, and range), the likelihood that the measure will be effective if implemented, and the likelihood of successful implementation.

2. The practicability of the measure(s) for applicant implementation. Practicability of implementation may consider such things as cost, impact on activities, and, in the case of a military readiness activity, specifically considers personnel safety, practicality of implementation, and impact on the

effectiveness of the military readiness activity.

While the language of the least practicable adverse impact standard calls for minimizing impacts to affected species or stocks, we recognize that the reduction of impacts to those species or stocks accrues through the application of mitigation measures that limit impacts to individual animals. Accordingly, NMFS’ analysis focuses on measures that are designed to avoid or minimize impacts on individual marine mammals that are more likely to increase the probability or severity of population-level effects.

While direct evidence of impacts to species or stocks from a specified activity is rarely available, and additional study is still needed to understand how specific disturbance events affect the fitness of individuals of certain species, there have been improvements in understanding the process by which disturbance effects are translated to the population. With recent scientific advancements (both marine mammal energetic research and the development of energetic frameworks), the relative likelihood or degree of impacts on species or stocks may often be inferred given a detailed understanding of the activity, the environment, and the affected species or stocks—and the best available science has been used here. This same information is used in the development of mitigation measures and helps us understand how mitigation measures contribute to lessening effects (or the risk thereof) to species or stocks. We also acknowledge that there is always the potential that new information, or a new recommendation, could become available in the future and necessitate reevaluation of mitigation measures (which may be addressed through adaptive management) to see if further reductions of population impacts are possible and practicable.

In the evaluation of specific measures, the details of the specified activity will necessarily inform each of the two primary factors discussed above (expected reduction of impacts and practicability) and are carefully considered to determine the types of mitigation that are appropriate under the least practicable adverse impact standard. Analysis of how a potential mitigation measure may reduce adverse impacts on a marine mammal stock or species, consideration of personnel safety, practicality of implementation, and consideration of the impact on effectiveness of military readiness activities are not issues that can be meaningfully evaluated through a yes/no lens. The manner in which, and the

degree to which, implementation of a measure is expected to reduce impacts, as well as its practicability in terms of these considerations, can vary widely. For example, a time/area restriction could be of very high value for decreasing population-level impacts (e.g., avoiding disturbance of feeding females in an area of established biological importance) or it could be of lower value (e.g., decreased disturbance in an area of high productivity but of less biological importance). Regarding practicability, for example, a measure might involve restrictions in an area or time that impede the Navy’s ability to certify a strike group (higher impact on mission effectiveness), or it could mean delaying a small in-port training event by 30 minutes to avoid exposure of a marine mammal to injurious levels of sound (i.e., lower impact). A responsible evaluation of “least practicable adverse impact” will consider the factors along these realistic scales. Accordingly, the greater the likelihood that a measure will contribute to reducing the probability or severity of adverse impacts to the species or stock or its habitat, the greater the weight that measure is given when considered in combination with practicability to determine the appropriateness of the mitigation measure, and vice versa. We discuss consideration of these factors in greater detail below.

Reduction of adverse impacts to marine mammal species or stocks and their habitat.

The emphasis given to a measure’s ability to reduce the impacts on a species or stock considers the degree, likelihood, and context of the anticipated reduction of impacts to individuals (and how many individuals) as well as the status of the species or stock.

The ultimate impact on any individual from a disturbance event (which informs the likelihood of adverse species- or stock-level effects) is dependent on the circumstances and associated contextual factors, such as duration of exposure to stressors. Though any proposed mitigation needs to be evaluated in the context of the specific activity and the species or stocks affected, measures with the following types of effects have greater value in reducing the likelihood or severity of adverse species- or stock-level impacts: (1) avoiding or minimizing injury or mortality; (2) limiting interruption of known feeding, breeding, mother/young, or resting behaviors; (3) minimizing the abandonment of important habitat (temporally and spatially); (4) minimizing the number of individuals

subjected to these types of disruptions; and (5) limiting degradation of habitat. Mitigating these types of effects is intended to reduce the likelihood that the activity will result in energetic or other types of impacts that are more likely to result in reduced reproductive success or survivorship. It is also important to consider the degree of impacts that is expected in the absence of mitigation in order to assess the added value of any potential measures. Finally, because the least practicable adverse impact standard gives NMFS discretion to weigh a variety of factors when determining appropriate mitigation measures and because the focus of the standard is on reducing impacts at the species or stock level, the least practicable adverse impact standard does not compel mitigation for every kind of take, or for every individual taken, if that mitigation is unlikely to meaningfully contribute to the reduction of adverse impacts on the species or stock and its habitat, even when practicable for implementation by the applicant.

The status of the species or stock is also relevant in evaluating the appropriateness of potential mitigation measures in the context of least practicable adverse impact. The following are examples of factors that may, alone or in combination, result in greater emphasis on the importance of a mitigation measure in reducing impacts on a species or stock: (1) the stock is known to be decreasing or status is unknown, but believed to be declining; (2) the known annual mortality (from any source) is approaching or exceeding the PBR level (as defined in MMPA section 3(20)); (3) the affected species or stock is a small, resident population; or (4) the stock is involved in a UME or has other known vulnerabilities (e.g., recovering from an oil spill).

Habitat mitigation, particularly as it relates to rookeries, mating grounds, and areas of similar significance, is also relevant to achieving the standard and can include measures such as reducing impacts of the activity on known prey utilized in the activity area or reducing impacts on physical habitat. As with species- or stock-related mitigation, the emphasis given to a measure's ability to reduce impacts on a species or stock's habitat considers the degree, likelihood, and context of the anticipated reduction of impacts to habitat. Because habitat value is informed by marine mammal presence and use, in some cases there may be overlap in measures for the species or stock and for use of habitat.

We consider available information indicating the likelihood of any measure to accomplish its objective. If evidence

shows that a measure has not typically been effective nor successful, then either that measure should be modified or the potential value of the measure to reduce effects should be lowered.

Practicability

Factors considered may include cost, impact on activities, and, in the case of a military readiness activity, will include personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity (see 16 U.S.C. 1371(a)(5)(A)(iii)).

Assessment of Mitigation Measures for the Study Area

NMFS has fully reviewed the specified activities and the mitigation measures included in the application and the 2025 SURTASS Draft SEIS/OEIS to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat. NMFS worked with the Navy in the development of their initially proposed measures, which are informed by years of implementation and monitoring. A complete discussion of the Navy's evaluation process used to develop, assess, and select mitigation measures, which was informed by input from NMFS, can be found in chapter 4 (Mitigation, Monitoring, and Reporting) and appendix F (Marine Mammal Offshore Biologically Important Area (OBIA) Analysis) of the 2025 SURTASS Draft SEIS/OEIS. The process described in these sections of the 2025 SURTASS Draft SEIS/OEIS robustly supported NMFS' independent evaluation of whether the mitigation measures would meet the least practicable adverse impact standard. The Navy would be required to implement the mitigation measures identified in this proposed rule for the full 7 years to avoid or reduce potential impacts from acoustic stressors.

As a general matter, where an applicant proposes measures that are likely to reduce impacts to marine mammals, the fact that they are included in the application indicates that the measures are practicable, and it is not necessary for NMFS to conduct a detailed analysis of the measures the applicant proposed (rather, they are simply included). However, it is still necessary for NMFS to consider whether there are additional practicable measures that would meaningfully reduce the probability or severity of impacts that could affect reproductive success or survivorship.

The Navy has agreed to mitigation measures that would reduce the probability and/or severity of impacts expected to result from acute exposure

to acoustic sources and impacts to marine mammal habitat. Specifically, the Navy would use a combination of delayed starts, sonar ramp-ups, and shutdowns to minimize the likelihood or severity of AUD INJ and reduce instances of TTS or more severe behavioral disturbance typically caused by exposure to higher received sound levels from acoustic sources. The Navy would implement the following primary mitigation measures, which are described in more detail below:

- **Mitigation Monitoring:** Use of a comprehensive suite of mitigation monitoring methods to support activity-based mitigation, including the use of visual monitoring, passive acoustic monitoring, and active acoustic monitoring using the HF/M3 system described below:

- **Activity-Based Measures:** Use of a combination of real-time measures to minimize the likelihood or severity of AUD INJ and reduce instances of TTS or more severe behavioral disturbance typically caused by exposure to higher received sound levels from acoustic sources, including delayed starts and shutdowns of the LFA sonar source, as well as ramp-ups of the HF/M3 system.

- **Geographic Measures:** Application of multiple time/area restrictions, including a year-round, 22-km CSR and avoiding identified OBIA's for marine mammals in areas or at times where they are known to engage in important behaviors (e.g., calving), to reduce impacts on reproduction or survival of individuals that could lead to population-level impacts.

The Navy assessed the practicability of the proposed measures in the context of personnel safety, practicality of implementation, and their impacts on the Navy's ability to meet their congressionally mandated requirements and found that the measures are supportable. As described in more detail below, NMFS has independently evaluated the measures the Navy proposed in the manner described earlier in this section (*i.e.*, in consideration of their ability to reduce adverse impacts on marine mammal species and their habitat and their practicability for implementation). We have determined that the measures would significantly reduce impacts on the affected marine mammal species and stocks and their habitat and, further, be practicable for implementation by the Navy. We have preliminarily determined that the mitigation measures ensure that the Navy's activities would have the least practicable adverse impact on the species or stocks and their habitat.

The Navy also evaluated numerous measures in the 2025 SURTASS Draft SEIS/OEIS that were not included in the application, and NMFS independently reviewed and preliminarily concurs with the Navy's analysis that their inclusion was not appropriate under the least practicable adverse impact standard based on our assessment. The Navy considered these additional potential mitigation measures in the context of the potential benefits to marine mammals and whether they are practical or impractical.

Section 4.6 (Mitigation and Monitoring Measures Considered but Eliminated) of chapter 4 of the 2025 SURTASS Draft SEIS/OEIS, includes an analysis of an array of different types of mitigation that have been recommended over the years by non-governmental organizations or the public, through scoping or public comment on environmental compliance documents. These recommendations generally fall into three categories, discussed below: (1) reduction of activity; (2) activity-based operational measures; and (3) time/area limitations.

As described in section 4.6 of the 2025 SURTASS Draft SEIS/OEIS, the Navy considered reducing the overall amount of training and testing activities, longer suspension or delay period (clearance time), restricting transmission to daylight hours, increased CSR, and expanded geographic sound field operational constraints. Many of these mitigation measures could potentially reduce the number of marine mammals taken via

direct reduction of the activities or amount of sound energy put in the water. However, as described in chapter 4 of the 2025 SURTASS Draft SEIS/OEIS, the Navy needs to train in the conditions in which they fight. These types of modifications fundamentally change the activity in a manner that would not support the purpose and need for the training (*i.e.*, are entirely impracticable) and therefore are not considered further. NMFS finds the Navy's explanation of why adoption of these recommendations would unacceptably undermine the purpose of the training persuasive. After independent review, NMFS finds the Navy's judgment on the impacts of these potential mitigation measures to personnel safety, practicality of implementation, and the effectiveness of training persuasive, and for these reasons, NMFS finds that these measures do not meet the least practicable adverse impact standard because they are not practicable.

Lastly, chapter 4 and appendix F of the 2025 SURTASS Draft SEIS/OEIS also describe a comprehensive analysis of potential geographic mitigation that includes consideration of both a biological assessment of how the potential time/area limitation would benefit the species and its habitat (*e.g.*, is a key area of biological importance or would result in avoidance or reduction of impacts) in the context of the stressors of concern in the specific area and an operational assessment of the practicability of implementation (*e.g.*, including an assessment of the specific

importance of an area for training, considering proximity to training ranges and emergency landing fields and other issues). In some cases, potential benefits to marine mammals were non-existent, while in others the consequences on mission effectiveness were too great.

NMFS has reviewed the Navy's analyses in the application and chapter 4 and appendix F of the 2025 SURTASS Draft SEIS/OEIS, which considers the same factors that NMFS considers to satisfy the least practicable adverse impact standard, and concurs with the analysis and conclusions. Therefore, NMFS is not proposing to include any of the measures that the Navy ruled out in the 2025 SURTASS Draft SEIS/OEIS. Below are the mitigation measures that NMFS has preliminarily determined would ensure the least practicable adverse impact on all affected species and their habitat, including the specific considerations for military readiness activities.

The following sections describe the mitigation measures that would be implemented in association with the activities analyzed in this document. The mitigation measures are discussed in three sections: (1) mitigation monitoring methods; (2) activity-based mitigation; and (3) geographic mitigation. Additionally, table 53 describes the information designed to aid Lookouts and other applicable personnel with their observation, environmental compliance, and reporting responsibilities.

Table 53 -- Environmental Awareness and Education

Stressor or Activity: All training and testing activities, as applicable.
Requirements: Navy personnel (including civilian personnel) involved in mitigation and training or testing activity reporting under the specified activities must complete one or more modules of the U.S. Navy Afloat Environmental Compliance Training Series, as identified in their career path training plan. Modules include: • Introduction to Afloat Environmental Compliance Training Series. The introductory module provides information on environmental laws (<i>e.g.</i>, ESA, MMPA) and the corresponding responsibilities that are relevant to military readiness activities. The material explains why environmental compliance is important in supporting the Navy's commitment to environmental stewardship. • Marine Species Awareness Training. In 2021, the Navy developed a new SURTASS-specific Marine Species Awareness Training module. The module was developed by civilian marine biologists and approved by NMFS. This video-based training provides information on marine species sighting cues, visual observation tools and techniques for SURTASS vessels, and sighting notification procedures. It is designed as a complement to the U.S. Navy Lookout Training Handbook adapted to SURTASS vessel training and testing. The module is required for ship masters, bridge watchstanders, and lookout personnel.

Note: T-AGOS vessels have an onboard computer system that the Navy must use to implement CSR and OBIA mitigation measures, including real-time acoustic propagation prediction mapping. Similar mitigation is implemented using Protective Measures Assessment Protocol (PMAP) and Sonar Positional Reporting System (SPORTS) onboard vessels in other Study Areas. The Navy intends for future T-AGOS vessels to use PMAP and SPORTS; however, use of these specific programs is not proposed herein to provide flexibility for existing T-AGOS vessels that may not be able to operate those systems at this time.

Additionally, in the event of a live stranding (or near-shore atypical milling) event within the Study Area or within 50 km of the boundary of the Study Area, where the stranding network is engaged in herding or other interventions to return animals to the water, NMFS OPR will advise the Navy of the need to implement shutdown procedures for SURTASS LFA sonar within 50 km of the stranding or near-shore atypical milling event. Following this initial shutdown, NMFS will communicate with the Navy to determine if circumstances support any modification of the shutdown zone. The Navy may decline to implement all or part of the shutdown if it determines that continuation of the military readiness activities is necessary for

national security. Shutdown procedures for live stranding or milling cetaceans include the following:

- If at any time, the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, NMFS will immediately advise that the shutdown around the animals' location is no longer needed;
- Otherwise, shutdown procedures will remain in effect until NMFS determines and advises that all live animals involved have left the area (either of their own volition or following an intervention); and
- If further observations of the marine mammals indicate the potential for re-stranding, additional coordination will be required to determine what measures are necessary to minimize that likelihood (*e.g.*, extending the shutdown

or moving operations farther away) and to implement those measures as appropriate.

Mitigation Monitoring

The Navy would use a comprehensive three-part monitoring program to support the implementation of real-time, activity-based mitigation measures described in the next section. The combined use of all three types of monitoring (*i.e.*, visual monitoring, passive acoustic monitoring, and active acoustic monitoring) increases the likelihood of marine mammal detection and, thereby, the effectiveness of the mitigation measures. The mitigation monitoring measures are provided in table 54.

BILLING CODE 3510-22-P

Table 54 -- Mitigation Monitoring

Monitoring Method	Requirements
Visual Monitoring	Visual observations must be conducted by trained Lookouts on the vessel's bridge using standard binoculars (7x) and the naked eye. Pedestal-mounted 'Big Eye' (20x110) binoculars (if installed) must be used to assist in the detection of marine mammals in the vicinity of the vessel. Lookouts must conduct visual monitoring from the vessel's bridge during all daylight hours (30 minutes before sunrise until 30 minutes after sunset). During training and testing activities that employ SURTASS LFA sonar in the active mode, Lookouts must conduct visual monitoring beginning 30 minutes before sunrise or 30 minutes before SURTASS LFA sonar begins to transmit and continue until 30 minutes after sunset or until the SURTASS LFA sonar transmissions cease. Lookouts must log all detections of marine mammals during SURTASS LFA sonar transmissions. Lookouts must record the number, identification, bearing, and range of observed marine mammals and must identify marine mammals to the lowest taxonomic level possible. Lookouts must continue visual observations until 15 minutes have passed since the last detection of the marine mammal.
Passive Acoustic Monitoring	Navy passive acoustic sonar technicians must conduct passive acoustic monitoring using the SURTASS towed horizontal line array to detect vocalizing marine mammals. Passive acoustic sonar technicians are trained to identify detected vocalizations to marine mammal species whenever possible. Passive acoustic monitoring must begin 30 minutes before the SURTASS LFA sonar begins to transmit and continue until 15 minutes after SURTASS LFA sonar transmissions cease. If a detected sound is estimated to be from a vocalizing marine mammal, the sonar technician will notify the senior military member-in-charge, who must alert the HF/M3 sonar operator and Lookouts (during daylight).
Active Acoustic (HF/M3) Monitoring	Active acoustic mitigation uses the HF/M3 sonar to detect, locate, and track marine mammals in relation to the SURTASS LFA sonar array and the LFA mitigation zone. HF/M3 sonar monitoring must begin 30 minutes before the SURTASS LFA sonar begins to transmit and continue until 15 minutes after SURTASS LFA sonar transmissions cease. If a marine mammal is detected during HF/M3 monitoring within the SURTASS LFA mitigation zone, the sonar operator must notify the senior military member-in-charge.

Note: Effectiveness of the HF/M3 sonar system as a mitigation tool to detect marine mammals has been described in the Navy's 2001 Final Overseas Environmental Impact Statement/Environmental Impact Statement (OEIS/EIS) (section 2 and section 4) for SURTASS LFA sonar (U.S. Department of the Navy, 2001) in addition to the technical report by Ellison and Stein (1999). To summarize the effectiveness of the HF/M3 sonar system, the Navy's testing and analysis of the HF/M3 sonar system's capabilities indicated the system: (1) substantially increased probability of detecting marine mammals within the LFA mitigation zone; (2) provided a superior mitigation capability, especially for medium- to large-sized marine mammals to a distance of 2-2.5 km from the system; (3) would result in detections of a marine mammal before it even entered the LFA mitigation zone—based on the scan rate of the HF/M3 sonar system, most animals would receive at least eight pings from the sonar (*i.e.*, eight sonar returns or detections) before entering the LFA mitigation zone; (4) based on scan rate, probability of any marine mammal being detected prior to entering the LFA mitigation zone approached 100 percent (Ellison and Stein, 1999); (5) the probability of HF/M3 sonar system detecting a medium- to large-sized (approximately 10-30 m) marine mammal (humpback to blue whale) swimming towards the system in the LFA mitigation zone with only one HF/M3 ping would be near 100 percent (Ellison and Stein, 1999); (6) for small (approximately 2.5 m) marine mammals such as a dolphin, detection probability is 55 percent from one HF/M3 ping when the sonar is located at a distance of

800-930 m from the marine mammal, while detection probability increased to 90 percent for four HF/M3 pings; and (7) may result in higher detection probabilities in a typical at-sea operating environment—during HF/M3 testing, analysts noted that in expected at-sea conditions of reduced clutter interference in the open ocean and small marine mammals traveling in their typical group configurations (*i.e.*, in pods), the detection rate would be higher (Ellison and Stein, 1999). Also, we note that the underwater conditions during which the HF/M3 data on detection distances were collected were extremely challenging (*i.e.*, poor sea state and weather conditions).

BILLING CODE 3510-22-C

Activity-Based Mitigation

The primary objective of activity-based mitigation is to reduce overlap of marine mammals with stressors that have the potential to cause injury or mortality in real time. The Navy customizes mitigation for each applicable activity category or stressor. Activity-based mitigation generally involves: (1) the use of one or more

trained Lookouts to diligently observe for marine mammals within a mitigation zone; (2) requirements for Lookouts to immediately communicate sightings of marine mammals to the appropriate watch station for information dissemination; and (3) requirements for the watch station to implement mitigation (*e.g.*, halt an activity) until certain recommencement conditions have been met.

For SURTASS LFA sonar, the Navy must implement the proposed activity-based mitigation measures described below (manned surface vessel mitigation (table 55), ramp up of HF/M3 sonar (table 56), and the SURTASS LFA mitigation zone and suspension/delay (table 57)), as appropriate, in response to an applicable detection within, or entering into, the relevant mitigation zone.

BILLING CODE 3510-22-P

Table 55 -- Manned Surface Vessel Mitigation

Mitigation Requirements	Mitigation Benefits
Manned surface vessel mitigation, which applies to T-AGOS vessels underway, will be implemented to the maximum extent practical based on the prevailing circumstances, including consideration of safety of vessels, towing platforms, and crews, as well as maneuverability restrictions. Immediately prior to getting underway and while underway, the Lookouts will observe for marine mammals. While underway Navy personnel must maneuver the manned surface vessels (which may include reducing speed) to maintain a distance of at least 457.2 m around observed whales and 182.9 m around all other marine mammals (except bow- or wake-riding dolphins), providing it is safe to do so. No further action is necessary if a dolphin continues to approach the vessel after it has made one course and/or speed change. Pedestal-mounted ‘Big Eye’ (20 x 110) binoculars (if installed) shall be used to assist in the detection of marine mammals in the vicinity of the vessel. If the presence of marine mammals is detected acoustically, Lookouts posted on the vessel shall increase the vigilance of their visual observation. Manned surface vessel mitigation will not be implemented (1) when dolphins are determined to be intentionally swimming at the bow, alongside the vessel or vehicle, or directly behind the vessel or vehicle (<i>e.g.</i>, to bow-ride or wake-ride), (2) when the vessel’s safety is threatened, or (3) when impractical based on mission requirements (<i>e.g.</i>, restricted ability to maneuver during towing activities).	This mitigation is intended to minimize the already low likelihood of vessel strike of a marine mammal.

Table 56 -- Ramp-up of High Frequency Marine Mammal Monitoring (HF/M3) Sonar

Mitigation Requirements	Mitigation Benefits
Prior to full-power use, Navy personnel must ramp up the HF/M3 sonar power level beginning at a maximum SL of 180 dB re 1 μPa at 1 m RMS SPL in 10 dB increments to full operating level (if required) over a period of no less than 5 minutes. Navy personnel must implement this ramp-up procedure at least 30 minutes prior to any SURTASS LFA sonar transmissions and any time after the HF/M3 sonar has been powered down for more than 2 minutes. Navy personnel must not increase the HF/M3 active sonar system’s SPL once a marine mammal is detected. The ramp-up may recommence once marine mammals are no longer detected by all of the monitoring methods.	A ramp-up procedure for the HF/M3 sonar system is intended to prevent inadvertent exposures of marine mammals to higher received levels more likely to result in AUD INJ or more severe behavioral responses if an animal were to occur in close proximity to the HF/M3 sonar system when it is turned on.

Table 57 -- SURTASS LFA Mitigation Zone and Suspension/Delay

Mitigation Requirements	Mitigation Benefits
The Navy has established a single, fixed mitigation zone of 1.8 km for use with the suspension and delay measures described below. At 1.8 km, modeling shows that the sound field would be about 174.75 dB. Utilizing a single, fixed mitigation zone for SURTASS LFA sonar training and testing activities standardizes and thus simplifies mitigation implementation while continuing to ensure protection of marine mammals in real time by limiting the potential for marine mammals to be exposed to received levels more likely to result in AUD INJ or more severe behavioral responses. If a marine mammal is detected during visual or acoustic monitoring within the LFA mitigation zone, the sonar operator must notify the senior military member-in-charge, who must order the immediate delay or suspension of LFA sonar transmissions. During the delay/suspension, active acoustic, visual, and passive acoustic monitoring for marine mammals would continue. If visual monitoring detects a marine mammal outside the LFA mitigation zone, the bridge officer will notify the senior military member-in-charge of the estimated range and bearing of the observed marine mammal. For possible visual or acoustic marine mammal observations outside of the zone, the sonar operator must verify (in the case of a visual observation) or determine (in the case of an acoustic detection) the range and projected track of the marine mammal and notify the senior military member-in-charge that a detected animal is likely to pass within the LFA mitigation zone. The senior military member-in-charge must notify the bridge and passive sonar operator of the potential presence of a marine animal projected to enter the mitigation zone. The senior military member-in-charge must order the delay or suspension of LFA sonar transmissions only when the marine mammal enters the LFA mitigation zone. Navy personnel must not commence or recommence SURTASS LFA sonar transmissions earlier than 15 minutes after all marine mammals have left the LFA mitigation zone and there is no further detection of marine mammals within the LFA mitigation zone by visual, active acoustic (HF/M3 sonar), or passive acoustic mitigation.	This mitigation is designed to reduce exposure of marine mammals to levels of sound that have the potential to cause AUD INJ or more severe behavioral impacts.

BILLING CODE 3510-22-C*Geographic Mitigation*

In addition to activity-based mitigation, the Navy would implement geographic mitigation measures to avoid or minimize potential impacts on marine mammals (see figure 11-1 of the application), including a CSR and

activity limitations around OBIAAs. A full technical analysis of the geographic mitigation that the Navy considered for marine mammals is provided in section 4.6 and appendix F of the 2025 SURTASS Draft SEIS/OEIS. The Navy took into account public comments received on the 2019 SURTASS

Supplemental EIS/OEIS, the best available science, and the practicability of implementing additional mitigation measures.

NMFS conducted an independent analysis of the geographic mitigation measures that the Navy proposed, which are described below. NMFS

preliminarily concurs with the Navy's analysis, which indicates that the measures in these mitigation areas are both practicable and will reduce the likelihood, magnitude, or severity of adverse impacts to marine mammals or their habitat in the manner described in the Navy's analysis and this proposed rule. NMFS is heavily reliant on the Navy's description of operational

practicability, since the Navy is best equipped to describe the degree to which a given mitigation measure affects personnel safety or mission effectiveness, and how practical it is to implement. The Navy considers the measures in this proposed rule to be practicable, and NMFS concurs. We further discuss the manner in which the Geographic Mitigation in the proposed

rule will reduce the likelihood, magnitude, or severity of adverse impacts to marine mammal species or their habitat in the Preliminary Analysis and Negligible Impact Determination section.

Table 58 details geographic mitigation related to the implementation of a CSR.

BILLING CODE 3510-22-P

Table 58 -- Coastal Standoff Range

Mitigation Requirements	Mitigation Benefits
The received level of SURTASS LFA sonar transmissions will not exceed 180 dB re 1 μ Pa RMS SPL within 22 km (12 nmi) from any emergent land, including offshore islands.	Many areas of biological importance to, and higher density of, marine mammals occur in coastal waters. The CSR would lower the risk to many marine mammals which aggregate in coastal waters. In a review of existing and proposed marine protected areas, approximately 80 percent were found to be located in the CSR. Coastal waters are heavily used seasonally for biologically important behaviors such as calving, foraging, and migrating.
SURTASS LFA sonar activities will not occur within the territorial seas of foreign nations, which are areas from 0-22 km (0-12 nmi) from shore.	

BILLING CODE 3510-22-C

Offshore Biologically Important Areas for SURTASS LFA Sonar

Given the unique transmission characteristics of SURTASS LFA sonar and recognizing that certain areas of biological importance lie outside of the CSR (*i.e.*, 22 km from any emergent land) for SURTASS LFA sonar, Navy and NMFS developed the concept of marine mammal OBIA for SURTASS LFA sonar. OBIA for SURTASS LFA sonar are not intended to apply to any other Navy activities and were established solely as a mitigation measure to reduce incidental harassment of marine mammals associated with the use of SURTASS LFA sonar (77 FR 50290, August 20, 2012). OBIA pertain to only species considered more sensitive to SURTASS LFA sonar, including marine mammals in the VLF and LF groups, as well as sperm whales and elephant seals, since the potential for impacts to other protected marine species from exposure to SURTASS LFA sonar transmissions would be low to moderate, necessitating no additional preventative measures for these taxa beyond those already established for SURTASS LFA sonar. Table 59 lists the identified OBIA (figure 4 herein, and table 11-1 and figure 11-1 in the application) within the Study Area, and table 60 describes the mitigation requirements within OBIA.

Appendix F of the 2025 SURTASS Draft SEIS/OEIS describes the selection

criteria and stepwise analysis used to identify OBIA. In summary, the comprehensive assessment of marine areas as OBIA candidates included a thorough review of the Important Marine Mammal Areas (IMMAs), Ecologically or Biologically Significant Marine Areas (EBSAs), areas listed in the World Database of Protected Areas (WDPA), Mission Blue Hope Spots, Pew Bertarelli Ocean Legacy Sites, High Seas Alliance Hot Spots, NOAA NMSs, NMFS ESA Critical Habitat, and areas previously included on the OBIA Watch List or that otherwise previously received full assessment for potential OBIA designation. The OBIA Watch List includes potential marine areas already identified and reviewed by the Navy and NMFS but for which documentation on the importance of the area to marine mammals has not been established or is lacking in detail. A total of 413 candidate marine areas in the Pacific and Indian Oceans were identified and added to a database for recordkeeping and analysis.

While the BIA identified by Kratofil *et al.* (2023) and discussed in the *Biologically Important Areas* section of this proposed rule were not considered in the OBIA selection criteria, NMFS has considered these BIA herein. Humpback whale is the only LF cetacean species for which Kratofil *et al.* (2023) identified a BIA, and this BIA fully overlaps identified OBIA or the CSR, and therefore, mitigation will be implemented within the BIA. All other

BIA identified in the Pacific SURTASS LFA Study Area fully or partially overlap identified OBIA or the CSR, as described in the *Biologically Important Areas* section.

The process for selection of OBIA for SURTASS LFA sonar, from the candidate list, includes a stepwise analysis based on four criteria: (1) Geographic; (2) LF-Hearing Cetaceans; (3) Biological Importance, and (4) Navy Practicability:

Criterion 1: Geographic

A marine area must be located at least partly in the Study Area (figure 1) and partly outside of the CSR (*i.e.*, the area within 22 km of any emergent land including islands or island systems) for OBIA consideration. The CSR already receives the same protection as OBIA, and therefore marine areas entirely within the CSR are not considered for further OBIA analysis.

Criterion 2: LF-Hearing Cetaceans

A marine area must have evidence of the presence of cetaceans that specialize in LF-hearing, such as all baleen whales, or marine mammals that have demonstrated sensitivity to LF sounds, such as sperm whales and elephant seals. SURTASS LFA sonar transmissions are well below the range of best hearing sensitivity for most other odontocetes and pinnipeds based on the measured hearing thresholds (U.S. Department of the Navy, 2025; Houser *et al.*, 2008; Houser *et al.*, 2024; Kastelein *et al.*, 2009; NMFS, 2024). The intent of

OBIAs is to protect those marine mammal species most likely to hear and be affected by SURTASS LFA sonar transmissions and to provide the animals additional protections during periods when they are conducting biologically significant activities. Thus, the primary focus of the OBIA mitigation measure is on LF-hearing sensitive species.

Criterion 3: Biological Importance

If a marine area meets Criteria 1 and 2, it must also have known biological importance to the relevant species present. As such, the marine area must meet at least one of the following biological sub-criteria to be considered as an OBIA: (1) have a presence of small, distinct populations with limited distributions; (2) have a presence of particularly high densities; (3) be a known breeding/calving ground(s); be a known foraging ground(s); (4) known migration routes; or (5) be a Critical Habitat as designated under the ESA. When direct data relevant to one of the biological subcriteria are limited, other available data and information may be used if those data and information, either alone or in combination with the limited direct data, are sufficient to

establish that the biological criteria are met.

Criterion 4: Navy Practicability

If an area meets the (1) geographic, (2) presence of LF cetaceans, and (3) biological importance criteria, it is considered a candidate OBIA, and the Navy conducts a practicability assessment (*e.g.*, consideration of personnel safety, practicality of implementation, and impacts on the effectiveness of SURTASS LFA sonar testing and training activities). If the candidate area passes the practicability assessment, then the marine area is considered to meet all criteria for designation as a SURTASS LFA sonar OBIA for marine mammals. If the Navy determines that it is not practicable to designate the area as an OBIA, the Navy will identify the concerns that lead to this conclusion and discuss with NMFS whether modifications could be made to the proposed OBIA to alleviate the Navy's practicability concerns.

Of the 38 marine areas assessed, the Navy and NMFS' analysis resulted in the recommendation of 5 new marine areas for identification as OBIAs, pending Navy fleet review for practicability. One OBIA is an expansion of an existing OBIA (OBIA

35, Western Australia—Blue Whale), to include the entirety of the Indian Ocean Blue Whale Migratory Route Important Marine Mammal Area (a designation by the International Union for Conservation of Nature). A second OBIA (OBIA 43, South of Lombok and Sumbawa Islands) represents an area that connects an existing OBIA (OBIA 37, Southern Bali) to the newly expanded OBIA 35, Western Australia—Blue Whale. The remaining three OBIAs are standalone areas (OBIA 40, 41, 42), disconnected from any existing OBIAs in the Study Area.

The five candidate OBIAs underwent Navy fleet practicability review. The Navy fleet determined that the identification of the five candidate OBIAs in the Study Area and the relevant seasonal effectiveness periods would not impede the effectiveness of SURTASS LFA sonar training and testing activities, would be practicable to implement as a geographic mitigation measure, and would not impact personnel safety. As a result, five new marine mammal OBIAs for SURTASS LFA sonar have been identified: OBIA 35 (expansion), 40, 41, 42, and 43 (table 59).

BILLING CODE 3510-22-P

Table 59 -- Identified OBIAs in the Study Area

OBIA Number	Name	Location/water body	Relevant marine mammal species	Effective period
26	Main Hawaiian Islands	Central North Pacific Ocean	Humpback whale	November to April
27	Northwestern Hawaiian Islands	Central North Pacific Ocean	Humpback whale	December to April
28	Mariana Islands	Western North Pacific Ocean	Humpback whale	February to April
29	Ryukyu-Philippines	Western North Pacific Ocean	Humpback whale	January to April
30	Ogasawara - Sperm whale	Western North Pacific Ocean	Sperm whale	June to September
31	Ogasawara-Kazin - Humpback whale	Western North Pacific Ocean	Humpback whale	December to May
32	Honshu	Western North Pacific Ocean	Gray whale	January to May
33	Southeast Kamchatka	Western North Pacific Ocean	Fin, gray (Western North Pacific stock), humpback, and North Pacific right whale	June to September
34	Gulf of Thailand	Eastern Indian Ocean	Bryde's whale	April to November
35*	Western Australia - Blue whale	Eastern Indian Ocean	Blue (pygmy) whale	May to November
36	Western Australia - Humpback whale	Eastern Indian Ocean	Humpback whale	May to December
37	Southern Bali	Eastern Indian Ocean	Bryde's, humpback, Omura's, sei, and sperm whale	October to November
38	Swatch-of-No-Ground (SoNG)	Northern Bay of Bengal	Bryde's whale	Year-round
39	Sri Lanka	Eastern Indian Ocean	Blue (pygmy) and sperm whale	October to April
40*	Maldives Archipelago	Central Indian Ocean	Blue (pygmy), Bryde's, humpback, and sperm whale	October to May
41*	Northeast Arabian Sea	Arabian Sea	Blue, Bryde's, and humpback (Arabian Sea stock) whale	Year-round
42*	South of Java Island	East Indian Ocean	Blue (pygmy) whale	October to November

OBIA Number	Name	Location/water body	Relevant marine mammal species	Effective period
43*	South of Lombok Sumbawa Islands	East Indian Ocean	Blue (pygmy) whale	October to November

Note: Existing OBIA 35 (Western Australia - Blue whale) was expanded to include the entirety of the Eastern Indian Ocean blue whale migratory route.

*New or expanded OBIA's since the 2019 SURTASS final rule (84 FR 40132, August 13, 2019)

Table 60 -- OBIA Mitigation Requirements

Mitigation Requirements	Mitigation Benefits
The received level of SURTASS LFA sonar transmissions will not exceed 180 dB re 1 μPa RMS SPL at a distance of 1 km (0.5 nmi) seaward of the outer perimeter of any OBIA in the SURTASS LFA Study Area during the effective period¹ specified. OBIA's and the related effective periods are listed in (table 59) or may be subsequently identified through the adaptive management process.² No more than 25 percent of the sound source amount analyzed (<i>i.e.</i>, no more than 275 hours in a given year) of SURTASS LFA sonar for training and testing will be conducted within 18.5 km of any single OBIA during any year.³	OBIA's would protect species considered more sensitive to SURTASS LFA sonar (including marine mammals in the VLF and LF groups, as well as sperm whales and elephant seals) from receiving injurious effects (<i>i.e.</i>, AUD INJ) from SURTASS LFA transmissions.

¹ OBIA's are active only during the specific time of year when biologically significant activities are potentially being carried out within that area.

² Although it is difficult to compare SPL and SEL based metrics since SEL accumulates with increasing exposure time, auditory injury thresholds are well above 180 dB, even without considering frequency weighting of the received sound levels, except for VHF cetaceans. However, VHF cetaceans do not hear well at the low frequencies associated with SURTASS LFA, so it is expected that the received level at these frequencies would be greatly reduced.

³ Should national security present a requirement to conduct more than 25 percent of the analyzed hours of SURTASS LFA sonar within 18.5 km of any single OBIA during any year, personnel conducting the activity would be required to obtain approval through the chain of command prior to commencement of the activity. The Navy must provide NMFS with notification as soon as is practicable and include the information (*e.g.*, sonar hours in exceedance of 25 percent) in its annual activity reports submitted to NMFS.

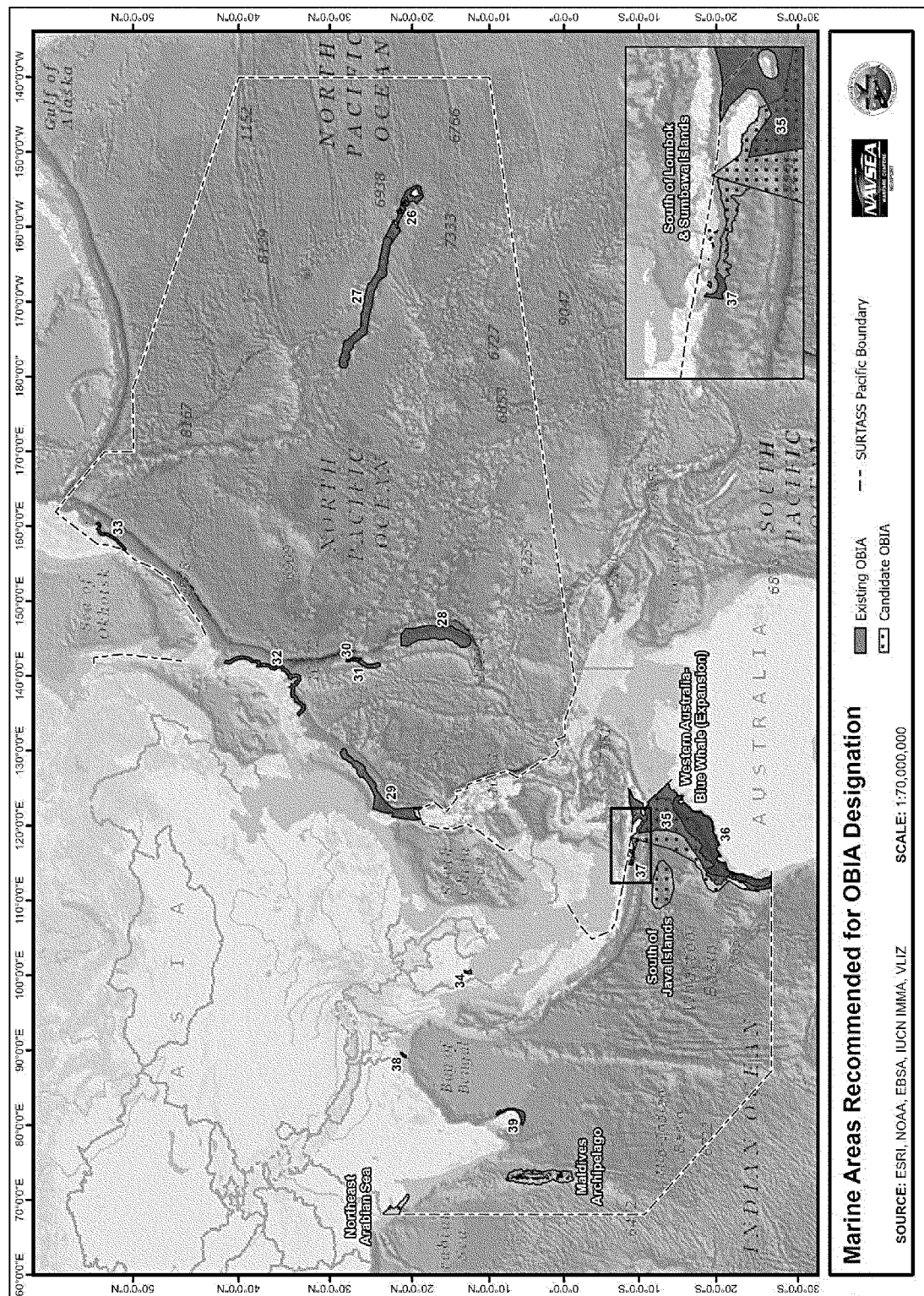


Figure 4 -- OBIA for Marine Mammals in the Pacific SURTASS LFA Sonar Study Area.

BILLING CODE 3510-22-C

Mitigation Conclusions

NMFS has carefully evaluated the Navy's proposed mitigation measures—many of which were developed with NMFS' input during the previous phases of SURTASS LFA sonar

activities—and considered a range of other measures (*i.e.*, the measures considered but eliminated in the 2025 SURTASS Draft SEIS/OEIS, which reflect many of the comments that have arisen from public input or through discussion with NMFS in past years) in the context of ensuring that NMFS

prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) the manner in which, and the degree to which, the successful

implementation of the mitigation measures is expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species and their habitat; (2) the proven or likely efficacy of the measures; and (3) the practicability of the measures for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Based on our evaluation of the Navy's proposed measures, as well as other measures considered by the Navy and NMFS (see section 4.6 of the 2025 SURTASS Draft SEIS/OEIS), NMFS has preliminarily determined that these proposed mitigation measures are appropriate means of effecting the least practicable adverse impact on marine mammal species and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and considering specifically personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Additionally, an adaptive management component helps further ensure that mitigation is regularly assessed and provides a mechanism to improve the mitigation, based on the factors above, through modification as appropriate.

The proposed rule comment period provides the public with an opportunity to submit recommendations, views, and/or concerns regarding the Navy's activities and the proposed mitigation measures. While NMFS has preliminarily determined that the Navy's proposed mitigation measures would effect the least practicable adverse impact on the affected species and their habitat, NMFS will consider all public comments to help inform our final determination. Consequently, proposed mitigation measures may be refined, modified, removed, or added prior to the issuance of the final rule based on public comments received and, as appropriate, analysis of additional potential mitigation measures.

Proposed Monitoring

Section 101(a)(5)(A) of the MMPA states that in order to authorize incidental take for an activity, NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and

of the level of taking or impacts on populations of marine mammals that are expected to be present.

A Marine Mammal Monitoring program became part of the research, monitoring, and reporting program for SURTASS LFA sonar's environmental compliance in 2001. A monitoring and research provision was included in the 2012 final rule (77 FR 50290, August 20, 2012) and subsequent LOAs for SURTASS LFA sonar that required the Navy to consider research or monitoring strategies that would increase the understanding of the potential effects of SURTASS LFA sonar transmissions.

The Navy would continue collecting monitoring data to inform our understanding of the occurrence of marine mammals in the Study Area, the likely exposure of marine mammals to stressors in the Study Area, the response of marine mammals to exposures to stressors, the consequences of a particular marine mammal response to their individual fitness and, ultimately, populations, and the effectiveness of implemented mitigation measures. Taken together, mitigation and monitoring comprise the Navy's integrated approach for reducing environmental impacts from the specified activities. The Navy's overall monitoring approach seeks to leverage and build on existing research efforts whenever possible.

As agreed upon between the Navy and NMFS, the monitoring measures presented here, as well as the mitigation measures described above, focus on the protection and management of potentially affected marine mammals. A well-designed monitoring program can provide important feedback for validating assumptions made in analyses and allow for adaptive management of marine mammals and their habitat, and other marine resources. Monitoring is required under the MMPA, and details of the monitoring program for the specified activities have been developed through coordination between NMFS and the Navy through the regulatory process for previous SURTASS training and testing activities.

Marine Mammal Monitoring Program

The SURTASS LFA sonar Marine Mammal Monitoring (M3) Program uses the Navy's fixed and mobile passive acoustic monitoring systems to enhance the Navy's collection of long-term data on individual and population levels of acoustically active marine mammals, principally baleen and sperm whales. Work using these sensors began under Navy funding in 1993.

The data that the M3 program collects are classified; however, analysts are working to develop reports that can be declassified and result in scientific papers that are peer-reviewed publications in scientific journals (Clark *et al.*, 2019; Guazzo *et al.*, 2024). Technical reports on accomplishments from the SURTASS Marine Mammal Monitoring Program are provided annually to NMFS. In addition, information on detections of western gray whale vocalizations has been shared with the International Union for the Conservation of Nature on possible wintering areas for this highly-endangered marine mammal. The Navy continues to assess and analyze program data collected from Navy passive acoustic monitoring systems and is working toward making some portion of that data, after appropriate security reviews, available to scientists with appropriate clearances and ultimately made publicly available. For example, from 2024 unclassified reporting for one of several species, analysts reported 630 acoustic tracks and 6,704 geographic positions of blue whales in the North Atlantic Ocean. In the North Pacific Ocean, 32 tracks and 119 associated positions were documented for North Pacific blue whales. During 2024, 559 geographic positions were used to develop four acoustic tracks of presumed hybrid blue/fin whales in the North Atlantic Ocean. The vocalizations of these assumed hybrid whales have individually distinct acoustic signals with characteristics of both typical fin and blue whale vocalizations, which enable individual hybrid whales to be differentiated and identified over years. Figure 13–1 of the application illustrates some of the information analyzed for annual reporting.

Regarding the suggested means of coordinating research opportunities and activities, collaboration between the monitoring program and the Navy's research and development (*e.g.*, the ONR) and demonstration-validation (*e.g.*, Living Marine Resources (LMR)) programs has been strengthened, leading to research tools and products that have already transitioned to the monitoring program. These include Marine Mammal Monitoring on Ranges, controlled exposure experiment BRSSs, acoustic sea glider surveys, and global positioning system-enabled satellite tags. Recent progress has been made with better integration with monitoring across all Navy at-sea study areas. Publications from the LMR and ONR programs have also resulted in significant contributions to hearing, acoustic criteria used in effects

modeling, exposure, and response, as well as in developing tools to assess biological significance (e.g., consequences).

Specifically, the Navy's LMR Program is funding a two-phase SURTASS LFA sonar BRS. The BRS is intended to update previous LFAS studies completed during the 1990s. The Phase I feasibility study (conducted 2021–2022) investigated the best approach to designing a scientific study to assess behavioral response to LFA sonar. After the Phase I feasibility study, Navy determined that an adequate LFAS amplifier was not available within the Navy or commercially. Therefore, for Phase II, LMR is funding the construction of a new amplifier specific to the LFS source. Construction of the amplifier began in FY 2025 and will continue through FY 2026. The BRS field research is expected to begin in FY 2028 and will incorporate lessons learned and best practices from controlled and observational BRSs using other sonar sources conducted over the last 10 years and will aim to supplement understanding of how SURTASS LFA sonar may affect marine resources, including mysticetes and beaked whales.

Adaptive Management

The proposed regulations governing the take of marine mammals incidental to military readiness activities in the Study Area contain an adaptive management component. Our understanding of the effects of military readiness activities (e.g., acoustic stressors) on marine mammals continues to evolve, which makes the inclusion of an adaptive management component both valuable and necessary within the context of 7-year regulations.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the previous year to allow NMFS to consider whether any changes to existing mitigation and monitoring requirements are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring and if the measures are practicable. If the modifications to the mitigation, monitoring, or reporting measures are

substantial, NMFS would publish a notice of the planned LOA in the **Federal Register** and solicit public comment.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) results from monitoring and exercise reports, as required by MMPA authorizations; (2) compiled results of Navy-funded research and development studies; (3) results from specific stranding investigations; (4) results from general marine mammal and sound research; and (5) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOA. The results from monitoring reports and other studies may be viewed at: <https://www.navy.marinpeciesmonitoring.us>.

Proposed Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Notification of Injured, Live Stranded, or Dead Marine Mammals

The Navy would consult the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when injured, live stranded, or dead marine mammals are detected. The Notification and Reporting Plan is available for review at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities>.

Annual Study Area Marine Species Monitoring Report

The Navy would submit an unclassified annual report of the Study Area marine species monitoring, describing the implementation and results from the previous calendar year. Data collection will adhere to methods that allow for comparison to other range complexes and Study Areas in different geographic regions. The draft report must be submitted to the Director of OPR of NMFS annually as specified in the LOA. NMFS will submit comments or questions on the report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after submittal of the draft if NMFS does not provide comments on

the draft report. The report would describe progress of knowledge made with respect to new or continuing scientific knowledge of marine mammals.

Annual SURTASS LFA Training and Testing Report

In the event that the analyzed sound levels were exceeded, the Navy would submit a preliminary report detailing the exceedance within 21 days after the anniversary date of issuance of the LOA. Regardless of whether analyzed sound levels were exceeded, the Navy would submit a detailed report (SURTASS LFA Annual Training and Testing Report) to NMFS annually within 3 months of the 1-year anniversary of the date of the issuance of the LOA. NMFS will submit comments or questions on the report, if any, within 1 month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 1 month after submittal of the draft if NMFS does not provide comments on the draft report. For the final reporting year, Navy must submit a final/close out (year 7) SURTASS LFA Annual Training and Testing Report.

The SURTASS LFA Annual Training and Testing Report must include the following: (1) dates, times, and locations of each vessel during each training and testing activity; (2) information on sonar transmissions during each training and testing activity, including total annual hours or quantity of each bin of sonar used in all training and testing events, cumulative sonar use quantity from previous years' reports through the current year, and records of any sonar delays or suspensions due to the presence of marine mammals; and (3) marine mammal sighting information for each sighting in each exercise where mitigation was implemented. Marine mammal sighting information would include: (1) date, time, and location of sighting; (2) species (if not possible, indication of whale/dolphin/pinniped), number of individuals, and the initial detection sensor (e.g., visual, passive acoustic, HF/M3 sonar); (3) indication of specific type of platform observation was made from (e.g., the type of surface vessel or testing platform); (4) length of time observers maintained visual contact with marine mammal; (5) sea state; (6) visibility; (7) sound source in use at the time of sighting; (8) indication of whether animal was less than 182.9 m, 182.9 to 457.2 m, 457.2 to 914.4 m, 914.4 m to 1.8 km, or greater than 1.8 km from sonar source; (9) whether operation of sonar sensor was delayed, or sonar was powered or shut down, and the length of delay; (10) bearing and range from the vessel; and (11) for visual

observations, Lookouts must report the observed behavior of the animal(s) in plain language and without trying to categorize in any way (animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, *etc.*) and if any calves were present. The report must also include an evaluation (based on data gathered during the reporting year) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation must identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation. The analysis in the report must be based on the data from the current year's report and data collected from previous annual reports.

The final/close-out (year 7) SURTASS LFA Annual Training and Testing Report will also serve as the comprehensive close-out report and provide the annual totals for each sound source bin with a comparison to the annual amount analyzed and the 7-year total for each sound source bin with a comparison to the 7-year amount analyzed. NMFS must submit comments on the draft final/close-out report, if any, within 3 months of receipt. The reports will be considered final after the Navy has addressed NMFS' comments, or 3 months after submittal of the drafts if NMFS does not provide comments.

Other Reporting and Coordination

The Navy would continue to report and coordinate with NMFS for the following:

- Annual marine species monitoring technical review meetings that also include researchers and the Marine Mammal Commission; and
- Annual Adaptive Management meetings that also include the Marine Mammal Commission (and could occur in conjunction with the annual marine species monitoring technical review meetings).

Preliminary Analysis and Negligible Impact Determination

Introduction

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number

of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be taken by Level A harassment or Level B harassment (as presented in table 51), NMFS considers other factors, such as the likely nature of any responses (*e.g.*, intensity, duration) and the context of any responses (*e.g.*, critical reproductive time or location, migration), as well as effects on habitat and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, other ongoing sources of human-caused mortality, and ambient noise levels).

In the Estimated Take of Marine Mammals section, we identified the subset of potential effects that would be expected to qualify as take under the MMPA both annually and over the 7-year period covered by this proposed rule and then identified the maximum number of takes we believe are reasonably expected to occur (harassment) based on the methods described. The impact that any given take will have is dependent on many case-specific factors that need to be considered in the negligible impact analysis (*e.g.*, the context of behavioral exposures such as duration or intensity of a disturbance, the health of impacted animals, the status of a species that incurs fitness-level impacts on individuals). For this proposed rule we evaluated the likely impacts of the enumerated maximum number of harassment takes that are proposed for authorization and reasonably expected to occur, in the context of the specific circumstances surrounding these predicted takes. Last, we collectively evaluated this information, as well as other more taxa-specific information and mitigation measure effectiveness, that support our negligible impact conclusions for each stock or species.

Analysis

In this section, we discuss multiple factors in the context of the Navy's activity, including the calculation of take by harassment, direct behavioral disturbance, the diel cycle, assessing the number of individuals taken and the

likelihood of repeated takes, physiological stress responses, TTS, masking, AUD INJ, impacts on marine mammal habitat, and the proposed mitigation measures, and how they are considered in the negligible impact analysis.

Harassment

The specified activities reflect best estimates of the number of hours the Navy will conduct SURTASS LFA training and testing activities. The Description of the Proposed Activity section describes annual activities. There may be some flexibility in the exact number of transmission hours from year to year, but it will not exceed the annual total of 1,100 transmission hours for all vessels and take totals would not exceed the maximum annual total and 7-year total indicated in table 51. We base our analysis and negligible impact determination on the maximum number of takes that would be reasonably expected to occur annually and are proposed to be authorized, although, as stated before, the number of takes is only one part of the analysis, which includes qualitative consideration of other contextual factors that influence the degree of impact of the takes on the affected individuals.

The Navy's harassment take request was calculated using a model (NAEMO) for acoustic stressors, which NMFS reviewed and concurs appropriately estimates the maximum amount of harassment that is reasonably likely to occur based on the maximum number of hours and equal distribution of hours across the 15 geographic modeling areas. As described in more detail in the *Navy Acoustic Effects Model* section, NAEMO calculates: (1) sound energy propagation from SURTASS LFA sonar during military readiness activities; (2) the sound received by animal dosimeters representing marine mammals distributed in the area around the modeled activity; and (3) whether the sound received by a marine mammal exceeds the thresholds for effects. Assumptions in the Navy models intentionally err on the side of overestimation when there are unknowns. The effects of the specified activities are modeled as though they would occur regardless of proximity to marine mammals, meaning that no activity-based mitigation is considered (*e.g.*, no power down or shut down). However, the modeling does quantitatively consider the possibility that marine mammals would avoid continued or repeated sound exposures to some degree, based on a species' sensitivity to behavioral disturbance. NMFS provided input to, independently

reviewed, and concurred with the Navy on this process. The Navy's analysis, which is described in detail in appendix B of the application, was used to quantify harassment takes for this proposed rule.

The Navy and NMFS anticipate more severe effects from takes resulting from exposure to higher received levels (though this is in no way a strictly linear relationship for behavioral effects throughout species, individuals, or circumstances) and less severe effects from takes resulting from exposure to lower received levels. However, there is also growing evidence of the importance of distance in predicting marine mammal behavioral response to sound, (*i.e.*, sounds of a similar level emanating from a more distant source have been shown to be less likely to elicit a response of equal magnitude) (DeRuiter *et al.*, 2013b). The estimated number of takes by Level A harassment and Level B harassment does not always equate to the number of individual animals the Navy expects to harass (which is lower for some species), but rather represents the instances of take (*i.e.*, exposures above the Level A harassment and Level B harassment threshold) that are anticipated to occur over the 7-year period. These instances may represent either brief exposures (*i.e.*, seconds or minutes) or, in some cases, longer durations of exposure within a day (though no more than 8 hours, which is the maximum amount Navy proposes to transmit in 1 day). In some cases, an animal that incurs a single take by AUD INJ or TTS may also experience a direct behavioral harassment from the same exposure.

Direct Behavioral Disturbance

The estimates calculated using the BRF do not differentiate between the different types of behavioral responses that qualify as Level B harassment. As described in the application, the Navy identified, with NMFS' input, that moderate behavioral responses, as characterized in Southall *et al.* (2021), would be considered a take. The behavioral responses predicted by the BRFs are assumed to be moderate severity exposures (*e.g.*, altered migration paths or dive profiles, interrupted nursing, breeding or feeding, or avoidance) that may last for the duration of an exposure. The Navy then compiled the available data indicating at what received levels and distances those responses have occurred and used the indicated literature to build biphasic behavioral response curves and cut-off conditions that are used to predict how many instances of Level B behavioral harassment occur in

a day (see the Criteria and Thresholds Technical Report). Take estimates alone do not provide information regarding the potential fitness or other biological consequences of the responses on the affected individuals. We therefore consider the available activity-specific, environmental, and species-specific information to determine the likely nature of the modeled behavioral responses and the potential fitness consequences for affected individuals.

The use of SURTASS LFA sonar in a given region would generally be considered transient and temporary; however, we note the comparatively large ensonified areas generated by the higher-power LF source. In the range of potential behavioral effects that might be expected as part of a response that qualifies as an instance of Level B harassment (which, by nature of the way it is modeled/counted, occurs within 1 day), the less severe end might include exposure to comparatively lower levels of a sound, at a detectably greater distance from the animal, for a few or several minutes to multiple hours within the day of the exposure (though not more than 8 hours, which is the maximum transmission time proposed for any single day), which could result in a behavioral response such as avoiding an area that an animal would otherwise have chosen to move through or feed in for some amount of time or breaking off one or a few feeding bouts. More severe effects could occur when the animal gets close enough to the SURTASS LFA sonar source to receive a comparatively higher level or is exposed continuously to one source for a longer time. Such effects might result in an animal having a more severe flight response and leaving a larger area for a day or more or potentially losing feeding opportunities for a day. However, such severe behavioral effects are expected to occur infrequently. Of note, required monitoring reports indicate that there have been no apparent avoidance responses observed since use of SURTASS LFA sonar training and testing activities began in the Study Area in 2002.

To help assess this, for SURTASS LFA sonar used in the Study Area, the Navy provided information estimating the instances of take by Level B harassment by behavioral disturbance under each BRF that would occur within 6-dB increments, and by distance in 5-km bins in section 2.3.3 of appendix A of the application. As mentioned above, all else being equal, an animal's exposure to a higher received level is more likely to result in a behavioral disturbance that could more likely accumulate to impacts on

reproductive success or survivorship of the animal, but other contextual factors (*e.g.*, distance, duration of exposure, and behavioral state of the animals) are also important (Di Clemente *et al.*, 2018; Ellison *et al.*, 2012; Moore and Barlow, 2013; Southall *et al.*, 2019c; Wensveen *et al.*, 2017, *etc.*). The majority of takes by Level B harassment are expected to be comparatively milder responses (*i.e.*, lower-level exposures that still qualify as take under the MMPA but would likely be less severe along the continuum of responses that qualify as take). We anticipate more severe effects from takes when animals are exposed to higher received levels of sound or at closer proximity to the source, or for longer durations. As noted previously in this proposed rule, behavioral response is likely variable between species (especially considering the reduced sensitivity of HF and VHF species to the SURTASS LFA sonar signal), individuals within a species, and context of the exposure. Specifically, given a range of behavioral responses that may be classified as Level B harassment, to the degree that higher received levels of sound are expected to result in more severe behavioral responses, only a smaller percentage of the anticipated Level B harassment from the specified activities might result in more severe responses. Further, the mitigation measures (described in detail in the Proposed Mitigation Measures section) are anticipated to reduce the exposure of marine mammals to received levels of SURTASS LFA sonar or HF/M3 sonar that would result in more severe behavioral responses.

Diel Cycle

Many animals perform vital functions, such as feeding, resting, traveling, and socializing on a diel cycle (24-hour cycle). Behavioral responses to noise exposure, when taking place in a biologically important context (*e.g.*, disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Henderson *et al.* (2016) found that ongoing smaller scale MFAS events, for example, had little to no impact on foraging dives for Blainville's beaked whale, while multi-day training events may decrease foraging behavior for Blainville's beaked whale (Manzano-Roth *et al.*, 2016). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multiple-

day substantive behavioral responses and multiple-day anthropogenic activities. SURTASS LFA sonar activities generally cover large areas that are relatively far from shore (typically more than 22 km from shore) and in generally deep waters. Marine mammals are moving as well, which would make it unlikely that the same animal could remain in the immediate vicinity of the ship for the entire duration of the activity. Further, as noted previously, SURTASS LFA sonar are not proposed to be conducted for more than 8 hours in a single day.

Assessing the Number of Individuals Taken and the Likelihood of Repeated Takes

As described previously, Navy modeling uses the best available science to predict the instances of exposure above certain acoustic thresholds, which are equated, as appropriate, to harassment takes. As further noted, for active acoustics it is typically more challenging to parse out the number of individuals taken by Level B harassment and the number of times those individuals are taken from this larger number of instances, though factors such as movement ecology (*e.g.*, is the species resident and more likely to remain in closer proximity to ongoing activities, versus nomadic or migratory; Keen *et al.* (2021)) or whether there are known areas where animals are known to congregate and overlap with activities can help inform this. One method that NMFS uses to help better understand the overall scope of the impacts is to compare these total instances of take against the abundance of that species (or stock if applicable). For example, if there are 100 harassment takes in a population of 100, the possibilities include either that every individual was exposed above acoustic thresholds once per year, or that some smaller number were exposed a few times per year while a few were not exposed at all. Where the instances of take exceed 100 percent of the population, multiple takes of some individuals are predicted and expected to occur within a year. Generally speaking, the higher the number of takes as compared to the population abundance, the more multiple takes of individuals are likely, and the higher the actual percentage of individuals in the population that are likely taken at least once in a year. We look at this comparative metric to give us a relative sense of where larger portions of the species are being taken by the Navy's SURTASS LFA sonar activities and where there is a higher likelihood that the same individuals are being taken across multiple days and where that

number of days might be higher. It also provides a relative picture of the scale of impacts on each species.

For SURTASS LFA sonar, given the limited maximum annual number of hours of sonar spread across four vessels and a large geographic area, the fact that the training and testing occurs far from shore (>22 km) and outside of known areas of concentration of LFA sonar-sensitive species (OBIAs), and considering the predicted take numbers as compared to known stock abundances (with the exception of beaked whales and the Western North Pacific stock of humpback whales (take as a percentage of stock abundance ranges from 104–207 percent), it is unlikely that the individuals of most species or stocks are taken on multiple days (<1 percent for most, 1–10 percent for three stocks). Further, takes of single stocks are expected across multiple regions. All beaked whale stocks and species have comparatively higher numbers of takes and percentages as compared to known abundances. These higher numbers are driven by the BRF for sensitive species, which appropriately reflects the known higher sensitivity of beaked whales to acoustic stressors. However, we note that the BRFs used to predict takes from active acoustic sources do not take into account how loud the animal may perceive the sonar signal to be based on the frequency of the sonar versus the animal's hearing range and, as noted previously, HF hearing specialists (*e.g.*, beaked whales) have significantly reduced hearing sensitivity in the 100–500-Hz range of SURTASS LFA sonar (17–40-dB reduced sensitivity), which means that the effects of these exposures may be comparatively less severe than those from higher-frequency active sonar. For these stocks, and for all beaked whale species, we expect the total anticipated takes represent exposures of a smaller number of individuals of which some could be exposed multiple times. However, based on the nature of the Navy's SURTASS LFA sonar activities and the movement patterns of marine mammals, it is highly unlikely that any particular subset would be taken over more than several sequential days (with a few possible exceptions discussed in the *Negligible Impact Summary and Determinations* section).

When calculating the proportion of a population taken (*e.g.*, the number of takes divided by population abundance), which can also be helpful in estimating the number of days over which some individuals may be taken, it is important to choose an appropriate population estimate against which to

make the comparison. Herein, NMFS considers the abundance estimates from the SARs where available and applicable. The SARs, where available and applicable, provide the official population estimate for a given species or stock in U.S. waters in a given year. These estimates are typically generated from the most recent shipboard and/or aerial surveys conducted, and in some cases, the estimates show substantial year-to-year variability. When the stock is known to range well outside of U.S. Exclusive Economic Zone (EEZ) boundaries, population estimates based on surveys conducted only within the U.S. EEZ are known to be underestimates. The SAR abundance estimate is included in table 1 for U.S. stocks. This proposed rule would authorize take of populations of the following species where there is no U.S. stock designated, as indicated in table 51: NPRW, blue whale, Bryde's whale, fin whale, humpback whale, Antarctic minke whale, minke whale, Omura's whale, sei whale, sperm whale, dwarf sperm whale, pygmy sperm whale, Baird's beaked whale, Blainville's beaked whale, Deraniyagala's beaked whale, ginkgo-toothed beaked whale, goose-beaked whale, Hubbs' beaked whale, Longman's beaked whale, Stejneger's beaked whale, false killer whale, killer whale, melon-headed whale, pygmy killer whale, short-finned pilot whale, bottlenose dolphin, common dolphin, Fraser's dolphin, Northern right whale dolphin, pantropical spotted dolphin, Risso's dolphin, rough-toothed dolphin, spinner dolphin, striped dolphin, Dall's porpoise, northern fur seal, ribbon seal, and ringed seal. For species for which no stock is designated, and no abundance estimate is available, it is not possible to calculate the proportion of the species taken. However, there is no reason to expect that these percentages would be higher than the U.S. stock percentages.

Physiological Stress Response

Some of the lower level physiological stress responses (*e.g.*, orientation or startle response, change in respiration, change in heart rate) discussed earlier would likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. Level B harassment takes, then, may have a stress-related physiological component as well; however, given the limited maximum number of total SURTASS LFA sonar hours in a year (1,100) and the fact that they are shared across four vessels and spread across an

ocean basin, we would not expect SURTASS LFA sonar to create conditions of long-term continuous noise leading to long-term physiological stress responses in marine mammals that could affect reproduction or survival.

Temporary Threshold Shift (TTS)

NMFS and the Navy have estimated that 30 species of marine mammals may incur some level of TTS from SURTASS LFA sonar. As mentioned previously, in general, TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths, all of which determine the severity of the impacts on the affected individual, which can range from minor to more severe. Table 52 indicates the number of takes by TTS that may be incurred by different species from exposure to active sonar. The TTS incurred by an animal is primarily characterized by three characteristics:

1. *Frequency.* Available data suggest that most TTS occurs in the frequency range of the source up to one octave higher than the source (with the maximum TTS at one-half octave above) (Finneran, 2015; Southall *et al.*, 2019). TTS from SURTASS LFA sonar would occur below 2 kHz, which is in the range where many mysticetes communicate and also where other auditory cues are located (*e.g.*, waves, snapping shrimp, fish prey), although it is out of the range of the majority of most odontocete communication and all echolocation. Pinnipeds communicate across a broad range, generally including low frequency grunts (in the tens of Hz), but sometimes ranging to high frequency whistles (above 20 kHz), depending on the species and context. Also of note, SURTASS LFA sonar from which TTS may incur occupy a narrow frequency band (between 100 and 500 Hz), meaning that the TTS incurred would also be across a narrower band (*i.e.*, not affecting more than a small portion of any marine mammal's hearing range).

2. *Degree of the shift (i.e., by how many dB the sensitivity of the hearing is reduced).* Generally, both the degree of TTS and the duration of TTS will be greater if the marine mammal is exposed to a higher level of energy (which would occur when the peak SPL is higher or the duration is longer). The threshold for the onset of TTS was discussed previously in this proposed rule. Animals would have to approach closer to the source or remain in the vicinity of the sound source appreciably longer to increase the received SEL, which would be unlikely for most taxa considering the Lookouts and the

relative motion between the sonar vessel and the animal but, given the large ensonified zone, could happen for some mysticetes, which is reflected in their higher TTS numbers. In the TTS studies discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, some using exposures of almost an hour in duration or up to 217 SEL, most of the TTS induced was 15 dB or less, though Finneran *et al.* (2007) induced 43 dB of TTS with a 64-second exposure to a 20 kHz source measured via auditory steady-state response (auditory evoked potential measurement). In general, there is a higher potential for TTS associated with sources with higher duty cycles, like continuous hull-mounted sonars, compared to those sources that are intermittent or have lower duty cycles (Kastelein *et al.*, 2015a).

In short, given the anticipated duration and levels of sound exposure, we would not expect marine mammals to incur more than low levels of TTS in most cases for sonar exposure, with potentially occasional moderate levels for some mysticete individuals. To add context to this degree of TTS, individual marine mammals may regularly experience variations of 6 dB differences in hearing sensitivity in their lifetime (Finneran *et al.*, 2000; Finneran *et al.*, 2002; Schlundt *et al.*, 2000).

3. *Duration of TTS (recovery time).* As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, TTS laboratory studies using exposures of up to an hour in duration or up to 217 dB SEL, most individuals recovered within 1 day (or less, often in minutes) (Kastelein, 2020b). One study resulted in a recovery that took 4 days (Finneran *et al.*, 2015; Southall *et al.*, 2019). However, there is evidence that repeated exposures resulting in TTS could potentially lead to residual threshold shifts that persist for longer durations and can result in PTS (Reichmuth *et al.*, 2019).

Compared to laboratory studies, marine mammals are likely to experience lower SELs from SURTASS LFA sonar in the Study Area due to movement of the source and animals and the duty cycle of SURTASS LFA sonar, though the larger ensonified area may result in longer exposures than some other sonar sources. Also, for the same reasons discussed in the Diel Cycle section of the Preliminary Analysis and Negligible Impact Determination section, and because of the short distance between the source and animals needed to reach high SELs,

it is unlikely that marine mammals would be exposed to the levels necessary to induce TTS in subsequent time periods such that hearing recovery is impeded. Additionally, though the frequency range of TTS that marine mammals might incur would overlap with some of the frequency ranges of their vocalization types, the frequency range of TTS from SURTASS LFA sonar does not span the entire frequency range of one vocalization type, much less span all types of vocalizations or other critical auditory cues.

As described above, we expect the majority of TTS takes to be in the form of milder, relatively short-term (minutes to hours), narrower band (only affecting a portion of the animal's hearing range) TTS. This means that for one to several times per year, for several minutes, maybe a few hours, or at most in limited circumstances a few days, a taken individual will have diminished hearing sensitivity (*i.e.*, more than natural variation, but nowhere near total deafness). Any such exposure would occur within a narrower low-frequency band that may overlap part (but not all) of the communication range of some mysticetes or pinnipeds, little odontocete communication, and no echolocation or predator sounds, or overlap some low frequency environmental sounds, such as those that marine mammals use to navigate or find prey. The significance of TTS is also related to the auditory cues that are germane within the time period that the animal incurs the TTS. For example, if a mysticete has TTS at frequencies that inhibits its detection of prey but incurs it at night when it is resting and not feeding, it may not be as impactful. In short, the expected results of any one of these limited number of mild TTS occurrences could be that: (1) it does not overlap signals that are pertinent to that animal in the given time period; (2) it overlaps parts of signals that are important to the animal, but not in a manner that impairs interpretation; or (3) it reduces detectability of an important signal to a small degree for a short amount of time—in which case the animal may be aware and be able to compensate (but there may be slight energetic cost), or the animal may have some reduced opportunities (*e.g.*, to detect prey) or reduced capabilities to react with maximum effectiveness (*e.g.*, to detect a predator or navigate optimally). However, it is unlikely that individuals would experience repeated or high degree TTS overlapping in frequency and time with signals critical for behaviors in a manner that would impact overall fitness.

Auditory Masking or Communication Impairment

The ultimate potential impacts of masking on an individual (if it were to occur) are similar to those discussed for TTS, but an important difference is that masking occurs only during the time of the signal, versus TTS, which continues beyond the duration of the signal. Fundamentally, masking is referred to as a chronic effect because one of the key harmful components of masking is its duration—the fact that an animal would have reduced ability to hear or interpret critical cues becomes much more likely to cause a problem the longer it occurs. Also inherent in the concept of masking is the fact that the potential for the effect is present only during the times that the animal and the source are in close enough proximity for the effect to occur (and further, this time period would need to coincide with a time that the animal was utilizing sounds at the masked frequency). As our analysis has indicated, because of the relative movement of vessels and the sound sources primarily involved in this proposed rule, as well as the fact that the Navy proposes a maximum of 8 hours of SURTASS LFA sonar transmission per day, we do not expect the exposures with the potential for masking to be of a long duration.

Masking is fundamentally more of a concern at lower frequencies because low-frequency signals propagate significantly farther than higher frequencies and because they are more likely to overlap both the narrower LF calls of mysticetes and pinnipeds and many non-communication cues (e.g., fish and invertebrate prey), and geologic sounds that inform navigation. Masking is more of a concern from continuous sources where there is no quiet time between pulses and detection and interpretation of auditory signals is likely more challenging. While SURTASS LFA sonar has comparatively long pings or wavetrains (6–100 seconds) and there are opportunities for reflection and reverberation in the deep ocean, there are also between 6- and 15-minute periods between each ping and, further, the limited hours of total annual LFA sonar transmission further reduces the likelihood of long exposure for any given individual. For these reasons, short-term exposure to the SURTASS LFA sonar is not expected to result in a meaningful amount of masking, and it is not in the contemporaneous aggregate amounts that would be expected to accrue to degrees that would have the potential to affect reproductive success or survival.

In conclusion, the bandwidth of a given SURTASS LFA sonar transmitted signal is limited (100 to 500 Hz), the average pulse length 60 seconds, the signals do not remain at a single frequency for more than 10 seconds, and the system is silent nominally 90–92.5 percent of the time during at-sea training activities. With the nominal duty cycle of 7.5–10 percent, masking by SURTASS LFA sonar would occur only over a very small temporal scale. Masking is more likely to occur in the presence of broadband, relatively continuous noise sources such as from vessels; however, masking effects from vessel noise during the operation of T-AGOS vessels are not expected to rise to the level of take. The duration of temporal and spatial overlap with any individual marine mammal and the SURTASS LFA sonar would not be expected to result in more than short-term, low impact masking that would neither have a reasonably foreseeable significant adverse impact on marine mammals nor affect reproduction or survival.

Auditory Injury

Table 52 indicates the number of takes of each species by Level A harassment in the form of auditory injury resulting from exposure to active sonar is estimated to occur, and table 51 indicates the totals across all SURTASS LFA sonar activities. The number of takes estimated to result from auditory injury annually from sonar for each species or stock ranges from 0 (for 35 species) to 32 (1–9 AUD INJ takes for 9 species or stocks, and 32 for fin whales with NSD). As described previously, the Navy's model likely overestimates the number of injurious takes. Nonetheless, these Level A harassment take numbers represent the maximum number of instances in which marine mammals would be reasonably expected to incur auditory injury, and we have analyzed them accordingly.

As discussed previously in relation to TTS, the likely consequences to the health of an individual that incurs auditory injury can range from mild to more serious and is dependent upon the degree of auditory injury and the frequency band associated with auditory injury. The majority of any auditory injury incurred as a result of exposure to SURTASS LFA sonar would be expected to be in the 100–500 Hz range and could overlap a small portion of the hearing and communication frequency range of mysticetes and some pinnipeds. The SURTASS frequency range is higher than the typically pelagic large whale main foraging and communication range (e.g., blue, fin, sei whales in the 20–40

Hz range). SURTASS frequency range is also lower than the most sensitive (*i.e.*, ability to perceive without significant loudness) range of many odontocetes and pinnipeds. Permanent loss of some degree of hearing is a normal occurrence for older animals, and many animals are able to compensate for the shift, both in old age or at younger ages as the result of stressor exposure. While a small loss of hearing sensitivity may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, at the expected scale it would be unlikely to impact behaviors, opportunities, or detection capabilities to a degree that would interfere with reproductive success or survival.

The Navy implements mitigation measures during SURTASS LFA sonar activities that are expected to minimize the severity of any AUD INJ accrued. This includes visual, active acoustic, and passive acoustic monitoring (the combination of which has been shown to be over 98 percent effective at detecting marine mammals) to support delaying initial sonar transmissions and suspending ongoing transmission when a marine mammal is observed in the shutdown zone (1.8 km around the LFA sonar array and T-AGOS vessel). These measures are described further in the Proposed Mitigation Measures section. Monitoring for marine mammals during the SURTASS LFA sonar activities would also include active (HF/M3) and passive acoustic detection methods before the activity begins and continue until 15 minutes after LFA sonar transmissions are terminated, in order to cover the mitigation zone. These mitigation measures are considered near 100 percent effective in avoiding exposures within the 1.8 km mitigation zone and reduce the severity of any auditory injury exposures (if incurred).

It is unlikely that any of the limited number of auditory injuries accrued to any one species would result in reduced reproductive success of any individuals, and auditory injury of the low severity anticipated here is not expected to affect the survival of any individual marine mammals.

Impacts to Marine Mammal Habitat

As described in the *Marine Mammal Habitat* section, the proposed training and testing activities have the potential to affect marine mammal habitat through impacts on the prey species of marine mammals, as well as the acoustic habitat of marine mammals (see masking discussion above). Impacts to habitat would be expected to be localized around the T-AGOS vessel transmitting sonar, and long-term

consequences to fish or invertebrate populations would not be expected based on the low level and short duration (at most, 8 hours per day) of potential exposure to SURTASS LFA sonar. Most fish species can hear low-frequency sounds and would be expected to be able to hear the LF sonar associated with the proposed activities. The most likely effects on fishes exposed to low-frequency sounds are behavioral responses. While there would be no probability for mortality or physical injury from low-frequency sonar, there is the potential for minor, temporary changes in behavior among fish, including increased swimming rate, avoidance of the sound source, or changes in orientation to the sound source. Marine invertebrate prey would be expected to detect nearby low-frequency sounds in most cases, which could, in some cases, cause behavioral effects. The most likely impacts for most prey species in a given area would be temporary avoidance of the area and long-term consequences to marine invertebrate populations would not be expected as a result of exposure to sounds or vessels in the Study Area.

Any anthropogenic noise attributed to SURTASS LFA sonar training and testing activities in the Study Area would be temporary and the acoustic habitat of the affected area would be expected to immediately return to its original state when these activities cease. The proposed activities would add sound to the ambient ocean environment, and water quality may potentially be affected should pollutants be discharged from T-AGOS vessels into oceanic waters. However, no impacts to the sediment or benthic environment would be expected because all equipment would be deployed in the marine water column.

The proposed SURTASS LFA sonar activities would not affect the physical characteristics of marine mammal habitats. Unless the sound source is stationary and/or continuous over a long duration in one area (noting the 8-hour daily maximum for SURTASS LFA sonar), the effects of the introduction of sound into the environment are generally considered to have a less

severe impact on marine mammal habitat than actions involving physical alteration of the habitat. Marine mammals may be temporarily displaced from areas where SURTASS LFA training and testing activities are occurring to avoid noise exposure (*i.e.*, due to impacts on acoustic habitat), but the habitat will not be physically altered and will likely be available for use again after the activities have ceased or moved out of the area. In addition, pings from SURTASS LFA sonar are very sporadic and are not generally repeated in the exact same area. SURTASS LFA training and testing activities would not result in the deposition of materials, change bathymetry, strike or modify features, or cause any physical alterations to marine mammal habitat.

NMFS does not expect any short- or long-term effects to marine mammal food resources from SURTASS LFA sonar training and testing activities. It is unlikely that the activities of the T-AGOS vessels transmitting LFA sonar at any place in the Study Area over the course of a year would implicate all of the areas for a given species or stock in any year. It is anticipated that ample similar nearby habitat areas are available for species/stocks in the event that portions of preferred areas are ensonified. Implementation of the 1.8 km LFA shutdown zone would ensure that most marine mammal takes are limited to lower-level Level B harassment. Further, in areas of known or likely biological importance for marine mammal functions (feeding, reproduction, *etc.*), effects are mitigated by the coastal standoff and OBIA.

Mitigation

As described in the Proposed Mitigation Measures section, this proposed rule includes mitigation measures that would reduce the probability and/or severity of impacts expected to result from acute exposure to acoustic sources and impacts to marine mammal habitat. Specifically, the Navy would use a comprehensive suite of mitigation monitoring methods to support activity-specific mitigation, including the use of visual monitoring, passive acoustic monitoring, and active acoustic monitoring using the HF/M3

system. Real-time activity specific measures would include a combination of delayed starts, sonar ramp-ups, and shutdowns to minimize the likelihood or severity of AUD INJ and reduce instances of TTS or more severe behavioral disturbance caused by acoustic sources. Navy would also apply time/area restrictions, including a 22-km CSR and avoiding identified OBIA's for marine mammals. The CSR and OBIA geographic restrictions on SURTASS LFA sonar training and testing activities are expected to minimize the likelihood of disruption of marine mammals in areas where important behavior patterns (*e.g.*, migration, calving, breeding, feeding, or sheltering) occur or in areas with small resident populations or higher densities of marine mammals. As a result, the takes that occur are less likely to result in energetic effects or disturbances of other important behaviors that would reduce reproductive success or survivorship.

In examining the results of the mitigation monitoring procedures over the previous 22 years of SURTASS LFA sonar activities, NMFS has concluded that the mitigation and monitoring measures for initiating shutdowns of the LFA sonar system have been implemented properly and have successfully minimized the potential adverse effects of SURTASS LFA sonar to marine mammals in the 1.8 km LFA sonar mitigation zone around the vessel.

Negligible Impact Summary and Determinations

As described above and in detail in table 61, NMFS has estimated and proposed to authorize the take, by harassment only, of 44 species of marine mammals, including 34 stocks identified pursuant to the MMPA. A subset of nine of those species could also be taken by Level A harassment over the course of the 7-year period. For reasons stated previously, no mortalities or serious injuries are anticipated to occur as a result of the Navy's proposed SURTASS LFA sonar training and testing activities, and none are proposed to be authorized by NMFS.

BILLING CODE 3510-22-P

Table 61 -- Annual Estimated Take by Level B harassment and Level A harassment and Related Information for Marine Mammals in the Study Area

Marine Mammal Species	Stock	SAR Abundance	Maximum Annual Level B Harassment (BEH + TTS)	Maximum Annual Level A Harassment (AUD INJ)	Maximum Annual Take	Maximum Annual Take as Percentage of SAR Abundance (Level A and Level B only)
North Pacific right whale	NSD	N/A	325	2	327	N/A
Blue whale	NSD	N/A	1,062	3	1,065	N/A
Blue whale	Central North Pacific	133	13	0	13	9.77
Bryde's whale	NSD	N/A	816	1	817	N/A
Bryde's whale	Hawaii	791	7	0	7	0.88
Fin whale	NSD	N/A	5,738	32	5,770	N/A
Fin whale	Hawaii	203	16	0	16	7.88
Humpback whale	NSD	N/A	3	0	3	N/A
Humpback whale	Hawaii	11,278	13	0	13	0.12
Humpback whale	Western North Pacific	1,084	1,133	4	1,137	104.89
Antarctic minke whale	NSD	N/A	48	0	48	N/A
Minke whale	NSD	N/A	3,020	6	3,026	N/A
Minke whale	Hawaii	438	3	0	3	0.68
Omura's whale	NSD	N/A	217	1	218	N/A
Sei whale	NSD	N/A	2,021	9	2,030	N/A
Sei whale	Hawaii	391	5	1	6	1.53
Sperm whale	NSD	N/A	37	0	37	N/A
Sperm whale	North Pacific	UNK	225	0	225	UND
Sperm whale	Hawaii	5,707	15	0	15	0.26
Dwarf sperm whale	NSD	N/A	719	0	719	N/A

Marine Mammal Species	Stock	SAR Abundance	Maximum Annual Level B Harassment (BEH + TTS)	Maximum Annual Level A Harassment (AUD INJ)	Maximum Annual Take	Maximum Annual Take as Percentage of SAR Abundance (Level A and Level B only)
Dwarf sperm whale	Hawaii	UNK	151	0	151	N/A
Pygmy sperm whale	NSD	N/A	864	0	864	N/A
Pygmy sperm whale	Hawaii	42,083	152	0	152	0.36
Baird's beaked whale	NSD	N/A	64,875	0	64,875	N/A
Blainville's beaked whale	NSD	N/A	61,964	0	61,964	N/A
Blainville's beaked whale	Hawaii	1,132	2,073	0	2,073	183.13
Deraniyagala's beaked whale	NSD	N/A	9,448	0	9,448	N/A
Ginkgo-toothed beaked whale	NSD	N/A	30,342	0	30,342	N/A
Goose-beaked whale	NSD	N/A	111,485	0	111,485	N/A
Goose-beaked whale	Hawaii	4,431	9,185	0	9,185	207.29
Hubbs' beaked whale	NSD	N/A	25,289	0	25,289	N/A
Longman's beaked whale	NSD	N/A	69,988	0	69,988	N/A
Longman's beaked whale	Hawaii	2,550	5,017	0	5,017	196.75
Stejneger's beaked whale	NSD	N/A	37,258	0	37,258	N/A
False killer whale	NSD	N/A	60	0	60	N/A
False killer whale	Main Hawaiian Islands Insular	138	1	0	1	0.72
False killer whale	Hawaii Pelagic	5,528	7	0	7	0.13
Killer whale	NSD	N/A	173	0	173	N/A
Killer whale	Hawaii	161	1	0	1	0.62
Melon-headed whale	NSD	N/A	537	0	537	N/A

Marine Mammal Species	Stock	SAR Abundance	Maximum Annual Level B Harassment (BEH + TTS)	Maximum Annual Level A Harassment (AUD INJ)	Maximum Annual Take	Maximum Annual Take as Percentage of SAR Abundance (Level A and Level B only)
Melon-headed whale	Hawaiian Islands	40,647	107	0	107	0.26
Pygmy killer whale	NSD	N/A	318	0	318	N/A
Pygmy killer whale	Hawaii	10,328	32	0	32	0.31
Short-finned pilot whale	NSD	N/A	1,083	0	1,083	N/A
Short-finned pilot whale	Hawaii	19,242	76	0	76	0.39
Bottlenose dolphin	NSD	N/A	1,901	0	1,901	N/A
Bottlenose dolphin	Hawaii Pelagic	24,669	32	0	32	0.13
Common dolphin	NSD	N/A	1,713	0	1,713	N/A
Fraser's dolphin	NSD	N/A	465	0	465	N/A
Fraser's dolphin	Hawaii	40,960	152	0	152	0.37
Northern right whale dolphin	NSD	N/A	10	0	10	N/A
Pacific white-sided dolphin	North Pacific	26,880	49	0	49	0.18
Pantropical spotted dolphin	NSD	N/A	2,785	0	2,785	N/A
Pantropical spotted dolphin	Hawaii Pelagic	67,313	233	0	233	0.35
Risso's dolphin	CWP/EJO NSD	N/A	1,575	0	1,575	N/A
Risso's dolphin	Hawaii	6,979	38	0	38	0.54
Rough-toothed dolphin	NSD	N/A	508	0	508	N/A
Rough-toothed dolphin	Hawaii	83,915	299	0	299	0.36
Spinner dolphin	NSD	N/A	276	0	276	N/A
Spinner dolphin	Hawaii Pelagic	N/A	15	0	15	N/A
Striped dolphin	NSD	N/A	4,327	0	4,327	N/A

Marine Mammal Species	Stock	SAR Abundance	Maximum Annual Level B Harassment (BEH + TTS)	Maximum Annual Level A Harassment (AUD INJ)	Maximum Annual Take	Maximum Annual Take as Percentage of SAR Abundance (Level A and Level B only)
Striped dolphin	Hawaii Pelagic	64,343	200	0	200	0.31
Dall's porpoise	NSD	N/A	3,020	0	3,020	N/A
Northern fur seal	NSD	N/A	1,296	0	1,296	N/A
Steller sea lion	Western	49,837	1	0	1	0.00
Bearded seal	Beringia	UND	1	0	1	UND
Harbor seal	California	30,968	1	0	1	0.00
Ribbon seal	NSD	N/A	37,650	1	37,651	N/A
Hawaiian monk seal	Hawaii	1,605	1	0	1	0.06
Ringed seal	NSD	N/A	25	0	25	N/A
Spotted seal	Bering	461,625	71	0	71	0.02

Note: A stock or population listed as 'NSD' is not a designated stock under the MMPA. N/A = Not Applicable, UND = Undetermined, UNK = Unknown.

documentation, NMFS preliminary finds that the total take proposed for authorization from SURTASS LFA sonar training and testing activities will have a negligible impact on all affected marine mammal species or stocks based on the following:

- No mortality is anticipated or proposed for authorization, nor is any non-auditory injury. Neither acoustic impacts resulting in stranding nor vessel strikes are expected to result from SURTASS LFA sonar training and testing. There is no empirical evidence of strandings or vessel strikes of marine mammals associated spatially or temporally with the use of SURTASS LFA sonar. Moreover, the sonar system acoustic characteristics differ between LFA sonar and MFA sonars that have been associated with strandings.

- The maximum annual allowable instances of take under this proposed rule by Level A harassment (AUD INJ only) range from 0 to 32 (fin whales with NSD).

- Regarding potential takes associated with auditory impairment, as described in the Temporary Threshold Shift section, any takes in the form of TTS are expected to be lower-level and of short duration. Any associated lost opportunities or capabilities that individuals might experience as a result of TTS would not be at a level or duration that would be expected to impact reproductive success or survival. For similar reasons, as discussed in the Auditory Injury section, while auditory injury impacts last longer, the low anticipated levels of AUD INJ that could be reasonably expected to result from these activities, should they occur, are unlikely to have any effect on fitness.

- The operational characteristics of the specified activities, including the limited maximum annual number of hours of SURTASS LFA sonar (1,100) shared across multiple vessels (likely not in close proximity to one another) and spread over the entire western and central North Pacific Ocean and eastern Indian Ocean (including multiple smaller and separated seas for some species), as well as the 8-hour maximum daily transmission, thus minimize the likelihood of multi-day or long-duration exposures for any individual marine mammals. Further, and as noted above, the context of exposures is important in evaluating the ultimate impacts of Level B harassment on individuals, and in the case of SURTASS LFA sonar, the approaching sound source would be moving through the open ocean at low speeds, so concerns of noise exposure are somewhat lessened in this context compared to situations where animals

may not be as able to avoid strong or rapidly approaching sound sources.

- Regarding the potential takes associated with behavioral harassment, as described in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, behavioral disturbance from SURTASS LFA sonar activities in a given region would generally be considered transient and temporary, though the ensonified area generated by the higher-power LF source is comparatively large. Behavioral disturbance is likely variable between species, individuals within a species, and context of the exposure, and responses are likely to range from less severe (e.g., an animal avoiding an area that it would otherwise have chosen to move through or feed in for some amount of time) to more severe (e.g., an animal having a more severe flight response and leaving a larger area for a day or more). Such severe behavioral effects are expected to occur infrequently due to the implementation of the proposed mitigation measures (e.g., the SURTASS LFA mitigation zone, which is designed to ensure that most marine mammal takes are limited to lower-level Level B harassment, CSR, and OBIAs).

- Previous reports indicate that the HF/M3 active sonar system has proven to be the most effective of the mitigation monitoring measures to detect possible marine mammals in proximity to the transmitting LFA sonar array, and the use of this system substantially increases the probability of detecting marine mammals within the mitigation zone. Because the HF/M3 system is able to monitor marine mammals out to an effective range of 2–2.5 km from the vessel, it is unlikely that the SURTASS LFA sonar operations would expose marine mammals to an SPL greater than about 174 dB re 1 μ Pa. Past results of the HF/M3 system tests provide confirmation that the system has a demonstrated probability of single-ping detection of 95 percent or greater for single marine mammals that are 10 m in length or larger, and a probability approaching 100 percent for multiple pings of any sized marine mammal (see chapter 4 of the 2025 SURTASS Draft SEIS/OEIS).

- In areas of known or likely biological importance for functions such as feeding, reproduction, *etc.*, effects are mitigated by the CSR and mitigation in the OBIAs for species sensitive to LF sound. The sound field generated by SURTASS LFA sonar during training activities would not exceed 180 dB re 1 μ Pa RMS SPL within 22 km from any emergent land. Further, no more than 25 percent (275 hours) of SURTASS LFA

sonar will be used for training activities within 18.5 km of any single OBIA during any year. These measures are expected to minimize the likelihood of disruption of marine mammals in areas where important behavior patterns (e.g., migration, calving, breeding, feeding, or sheltering) occur, or in areas with small resident populations or higher densities of marine mammals. As a result, any takes that occur are less likely to result in energetic effects or disturbances of other important behaviors that would be more likely to reduce reproductive success or survivorship.

- Based on the information in the *Marine Mammal Habitat* section of this proposed rule, and the supporting information included in the 2025 SURTASS Draft SEIS/OEIS, NMFS has determined that the proposed training and testing activities would not have adverse or long-term impacts on marine mammal habitat.

- As noted above, there is a higher likelihood that some number of individual beaked whales (of all species and stocks) or humpback whales (Western North Pacific stock) may be taken on up to several days within a year, considering annual take maxima and the total across 7 years. However, as described, given the magnitude and severity of the potential take (especially noting the reduced sensitivity of beaked whales to SURTASS LFA sonar signal), and in consideration of the required mitigation measures and other information presented, the Navy's activities are not expected to result in impacts on the reproduction or survival of any individuals, much less affect annual rates of recruitment or survival.

Preliminary Determination

Based on the analysis contained herein of the likely effects of the specified activities on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the specified activity will have a negligible impact on all affected marine mammal species or stocks.

Unmitigable Adverse Impact Analysis and Determination

The Navy will not operate SURTASS LFA sonar in Arctic waters nor in the Gulf of Alaska, or off the Aleutian Island chain where subsistence uses of marine mammals protected through sections 101(a)(5)(A) of the MMPA occur. Therefore, there are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. As such, there would be no

impact on subsistence hunting, nor would SURTASS LFA sonar cause abandonment of any harvest/hunting locations, displace any subsistence users, or place physical barriers between marine mammals and the hunters. NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Classification

Endangered Species Act (ESA)

There are 10 marine mammal species under NMFS jurisdiction that are listed as endangered or threatened under the ESA with confirmed or possible occurrence in the Study Area: (1) blue whale; (2) fin whale; (3) humpback whale; (4) NPRW; (5) sei whale; (6) sperm whale; (7) false killer whale; (8) bearded seal; (9) Hawaiian monk seal; and (10) Steller sea lion. The humpback whale (86 FR 21082, April 21, 2021), false killer whale (83 FR 35062, July 24, 2018), and Hawaiian monk seal (51 FR 16047, April 30, 1986; revised in 1988 (53 FR 18988, May 26, 1988) and in 2015 (80 FR 50925, August 21, 2015)) have critical habitat designated under the ESA in the Study Area.

The Navy will consult with NMFS pursuant to section 7 of the ESA for the Study Area activities. NMFS will also consult internally on the issuance of the regulations and an LOA under section 101(a)(5)(A) of the MMPA.

National Marine Sanctuaries Act

The Navy and NMFS will work with NOAA's Office of National Marine Sanctuaries to fulfill our responsibilities under the National Marine Sanctuaries Act as warranted and will complete any NMSA requirements prior to a determination on the issuance of the final rule and LOA.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review its proposed actions with respect to potential impacts on the human environment. Accordingly, NMFS plans to rely on the 2025 SURTASS Draft SEIS/OEIS for the Study Area, provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing regulations and LOAs under the MMPA. NMFS is a cooperating agency on the 2025 SURTASS Draft SEIS/OEIS

and has worked extensively with the Navy in developing the document. The 2025 SURTASS Draft SEIS/OEIS was made available for public comment at: <https://www.nepa.navy.mil/surtass-lfa/>, which also provides additional information about the NEPA process, from June 13, 2025, through July 28, 2025. We will review all comments prior to concluding our NEPA process and making a final decision on the MMPA rulemaking and request for LOA.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the MMPA rule and request for LOA.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The RFA requires Federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking. However, a Federal agency may certify, pursuant to 5 U.S.C. 605(b), that the action will not have a significant economic impact on a substantial number of small entities. The Navy is the only entity that would be affected by this proposed rulemaking and is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Any requirements imposed by an LOA issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, would be applicable only to the Navy. NMFS does not expect the issuance of these regulations or the associated LOA to result in any impacts to small entities pursuant to the RFA. Because this action, if adopted, would directly affect only the Navy and not any small entities, NMFS concludes that the action would not result in a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This action does not contain any collection of information requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 14192

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 218

Administrative practice and procedure, Endangered and threatened species, Fish, Fisheries, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: March 5, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, NMFS proposes to amend 50 CFR part 218 as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Revise subpart X to read as follows:

Subpart X—Taking and Importing Marine Mammals; U.S. Navy Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar Training and Testing in the Central and Western North Pacific and Eastern Indian Oceans

Sec.

- 218.230 Specified activity and geographical region.
- 218.231 Effective dates.
- 218.232 Permissible methods of taking.
- 218.233 Prohibitions.
- 218.234 Mitigation requirements.
- 218.235 Requirements for monitoring and reporting.
- 218.236 Letter of Authorization.
- 218.237 Modifications of Letter of Authorization.
- 218.238–218.239 [Reserved]

§218.230 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to the activities listed in paragraph (c) of this section. Requirements imposed on the Navy must be implemented by

those persons they authorize or fund to conduct activities on their behalf.

(b) The taking of marine mammals by the Navy under this subpart may be authorized in a letter of authorization (LOA) only if it occurs within the

Pacific Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar Study Area. The Pacific SURTASS LFA Sonar Study Area is delineated in Figure 1 to this paragraph (b) and includes the western

and central North Pacific Ocean and eastern Indian Ocean, not including the western Indian Ocean or Sea of Okhotsk.

BILLING CODE 3510-22-P

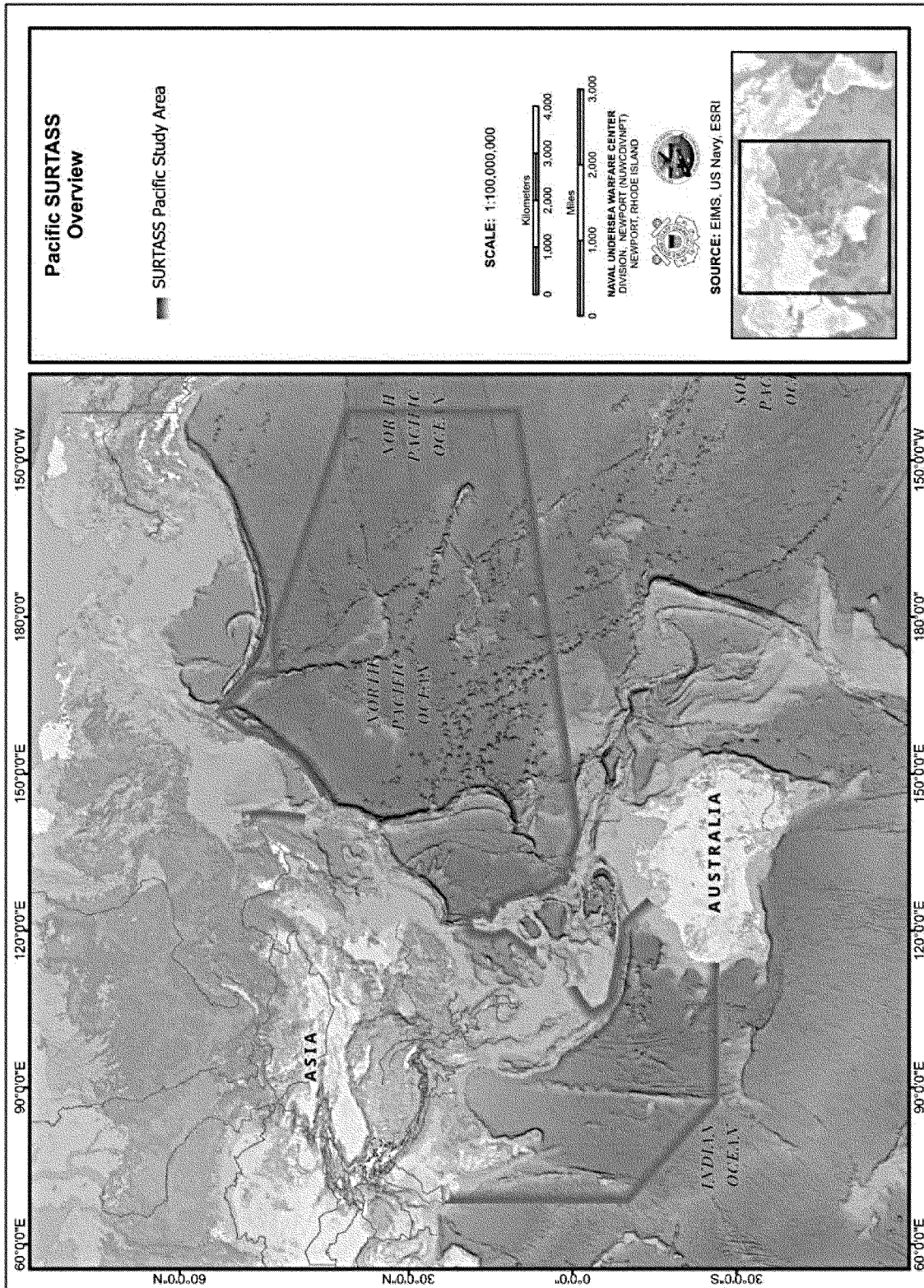


Figure 1 to paragraph (b) -- Map of the Pacific SURTASS LFA Sonar Study Area

BILLING CODE 3510-22-C

(c) The taking of marine mammals by the Navy is authorized only if it occurs incidental to the Navy conducting military readiness activities, including those in the following categories:

- (1) Training;
- (2) Maintenance and upgrades; and
- (3) Exercises.

§ 218.231 Effective dates.

Regulations in this subpart are effective from August 13, 2026, through August 12, 2033.

§ 218.232 Permissible methods of taking.

(a) Under LOAs issued pursuant to § 216.106 of this chapter and this subpart, the Navy may incidentally, but not intentionally, take marine mammals within the area described in

§ 218.230(b) by Level A harassment and Level B harassment associated with the use of SURTASS LFA sonar, provided the activity is in compliance with all terms, conditions, and requirements of this subpart and the applicable LOA.

(b) The incidental take of marine mammals by the activities listed in § 218.230(c) is limited to the following species:

BILLING CODE 3510-22-P

Table 1 to paragraph (b)

Species	Stock
North Pacific right whale	No stock designation (NSD)
Blue whale	NSD
Blue whale	Central North Pacific
Bryde's whale	NSD
Bryde's whale	Hawaii
Fin whale	NSD
Fin whale	Hawaii
Humpback whale	NSD
Humpback whale	Hawaii
Humpback whale	Western North Pacific
Antarctic minke whale	NSD
Minke whale	NSD
Minke whale	Hawaii
Omura's whale	NSD
Sei whale	NSD
Sei whale	Hawaii
Sperm whale	NSD
Sperm whale	North Pacific
Sperm whale	Hawaii
Dwarf sperm whale	NSD
Dwarf sperm whale	Hawaii
Pygmy sperm whale	NSD
Pygmy sperm whale	Hawaii
Baird's beaked whale	NSD
Blainville's beaked whale	NSD
Blainville's beaked whale	Hawaii
Deraniyagala's beaked whale	NSD
Ginkgo-toothed beaked whale	NSD
Goose-beaked whale	NSD
Goose-beaked whale	Hawaii
Hubbs' beaked whale	NSD

Longman's beaked whale	NSD
Longman's beaked whale	Hawaii
Stejneger's beaked whale	NSD
False killer whale	NSD
False killer whale	Main Hawaiian Islands Insular
False killer whale	Hawaii Pelagic
Killer whale	NSD
Killer whale	Hawaii
Melon-headed whale	NSD
Melon-headed whale	Hawaiian Islands
Pygmy killer whale	NSD
Pygmy killer whale	Hawaii
Short-finned pilot whale	NSD
Short-finned pilot whale	Hawaii
Bottlenose dolphin	NSD
Bottlenose dolphin	Hawaii Pelagic
Common dolphin	NSD
Fraser's dolphin	NSD
Fraser's dolphin	Hawaii
Northern right whale dolphin	NSD
Pacific white-sided dolphin	North Pacific
Pantropical spotted dolphin	NSD
Pantropical spotted dolphin	Hawaii Pelagic
Risso's dolphin	NSD
Risso's dolphin	Hawaii
Rough-toothed dolphin	NSD
Rough-toothed dolphin	Hawaii
Spinner dolphin	NSD
Spinner dolphin	Hawaii Pelagic
Striped dolphin	NSD
Striped dolphin	Hawaii Pelagic
Dall's porpoise	NSD
Northern fur seal	NSD

Steller sea lion	Western
Bearded seal	Beringia
Harbor seal	California
Ribbon seal	NSD
Hawaiian monk seal	Hawaii
Ringed seal	NSD
Spotted seal	Bering

BILLING CODE 3510-22-C

§ 218.233 Prohibitions.

Except incidental take described in § 218.232 and authorized by a LOA issued under this subpart, it shall be unlawful for any person to do the following in connection with the activities described in this subpart:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under § 216.106 of this chapter and this subpart;

(b) Take any marine mammal not specified in § 218.232(b);

(c) Take any marine mammal specified in § 218.232(b) in any manner other than as specified in the LOA;

(d) Take a marine mammal specified in § 218.232(b) after NMFS determines such taking results in more than a negligible impact on the species or stock of such marine mammal; or

(e) Take a marine mammal specified in § 218.232(b) after NMFS determines such taking is having, or may have, an unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses.

§ 218.234 Mitigation requirements.

When conducting the activities identified in § 218.230(c), the mitigation measures contained in this section and any LOA issued under this subpart must be implemented by Navy personnel or contractors who are trained according to the requirements in the LOA. If Navy contractors are serving on behalf of Navy personnel, Navy contractors must follow the mitigation applicable to Navy personnel. These mitigation measures include, but are not limited to:

(a) *General operating procedures.* The following general operating procedures are required:

(1) Prior to SURTASS LFA sonar activities, the Navy must promulgate executive guidance for the administration, execution, and compliance with the environmental

regulations under these regulations and LOA.

(c) *Manned surface vessel mitigation.* Manned surface vessel mitigation applies to Tactical-Auxiliary General Ocean Surveillance (T-AGOS) vessels underway and must be implemented to the maximum extent practical based on the prevailing circumstances, including consideration of safety of vessels, towing platforms, and crews, as well as maneuverability restrictions, consistent with the following:

(1) Immediately prior to getting underway and while underway, Lookouts will observe for marine mammals;

(2) While underway, Navy personnel must maneuver the manned surface vessels (which may include reducing speed) to maintain a distance of at least 457.2 meters (m) (500 yards (yd)) around observed whales and 182.9 m (200 yd) around all other marine mammals (except bow- or wake-riding dolphins), providing it is safe to do so. No further action is necessary if a dolphin continues to approach the vessel after the vessel has made one course and/or speed change.

(3) Pedestal-mounted 'Big Eye' (20 x 110) binoculars (if installed) shall be used to assist in the detection of marine mammals in the vicinity of the vessel. If the presence of marine mammals is detected acoustically, Lookouts posted on the vessel shall increase the vigilance of their visual observation.

(4) Manned surface vessel mitigation will not be implemented if one of the following conditions applies:

(i) Dolphins are determined to be intentionally swimming at the bow, alongside the vessel or vehicle, or directly behind the vessel or vehicle (e.g., to bow-ride or wake-ride),

(ii) The vessel's safety is threatened, or

(iii) Doing so is impractical based on mission requirements (e.g., restricted

ability to maneuver during towing activities).

(d) *SURTASS LFA sonar mitigation zone; suspension and delay.* If a marine mammal is detected, through monitoring required under § 218.235, within or about to enter within 2,000 yd (1.8 kilometers (km)) of the SURTASS LFA source (i.e., the LFA mitigation zone), the Navy must immediately delay or suspend SURTASS LFA sonar transmissions.

(e) *Recommendation of SURTASS LFA sonar transmissions.* The following requirements for commencement or recommencement of SURTASS LFA sonar transmissions apply:

(1) Navy personnel must not commence or recommence SURTASS LFA sonar transmissions earlier than 15 minutes after:

(i) All marine mammals have left the area of the 2,000-yd (1.8 km) LFA sonar mitigation zone; and

(ii) There is no further detection of any marine mammal within the 2,000-yd (1.8 km) LFA sonar mitigation zone as determined by the visual, passive acoustic, and active acoustic high frequency monitoring described in § 218.235.

(2) [Reserved]

(f) *Ramp-up of the high-frequency/marine mammal monitoring (HF/M3) active sonar.* The following requirements for ramp-up procedures for the HF/M3 active sonar apply:

(1) Prior to full-power use, Navy personnel must ramp up the HF/M3 active sonar power level beginning at a maximum source sound pressure level of 180 decibels referenced to 1 microPascal (dB re 1 μ Pa) root-mean-square (RMS) sound pressure level (SPL) in 10-dB increments to full operating levels over a period of no less than 5 minutes. Navy personnel must implement this ramp-up procedure:

(i) At least 30 minutes prior to any SURTASS LFA sonar transmissions; and

(ii) Any time after the HF/M3 source has been powered down for more than 2 minutes.

(2) Navy personnel must not increase the HF/M3 SPL once a marine mammal is detected; and

(3) Ramp-up may recommence once marine mammals are no longer detected.

(g) *Geographic mitigation.* The Navy must implement the geographic mitigation requirements as follows:

(1) LFA sonar training and testing activities must be conducted such that:

(i) The received level of SURTASS LFA sonar transmissions will not exceed 180 dB re 1 μ Pa RMS SPL within 22 km (12 nautical miles (nmi)) from any emergent land, including offshore islands;

(ii) The received level of SURTASS LFA sonar transmissions will not exceed 180 dB re 1 μ Pa RMS SPL at a distance of 1 km (0.5 nmi) seaward of the outer perimeter of any Offshore Biologically Important Area (OBIA) in the SURTASS LFA Study Area during the effective period specified. OBIA's and the related effective periods are listed in paragraph (g)(2) of this section or may be subsequently identified through the adaptive management process specified in § 218.237(c)(1). The boundaries and effective periods of the OBIA's will be kept on file in NMFS' Office of Protected Resources (OPR) and on its website.

(iii) No more than 25 percent of the sound source amount analyzed (no more than 275 hours in a given year) of SURTASS LFA sonar for training and testing will be conducted within 18.5 km (10 nmi) of any single OBIA during any year; and

(iv) SURTASS LFA sonar activities will not occur within territorial seas of foreign nations, which are areas from 0–22 km (0–12 nmi) from shore.

(2) Figure 1 to this paragraph (g)(1) shows the location of the OBIA's. Table 1 to paragraph (g)(1) shows the specified timeframes when the requirements from paragraph (g)(1) apply.

BILLING CODE 3510–22–P

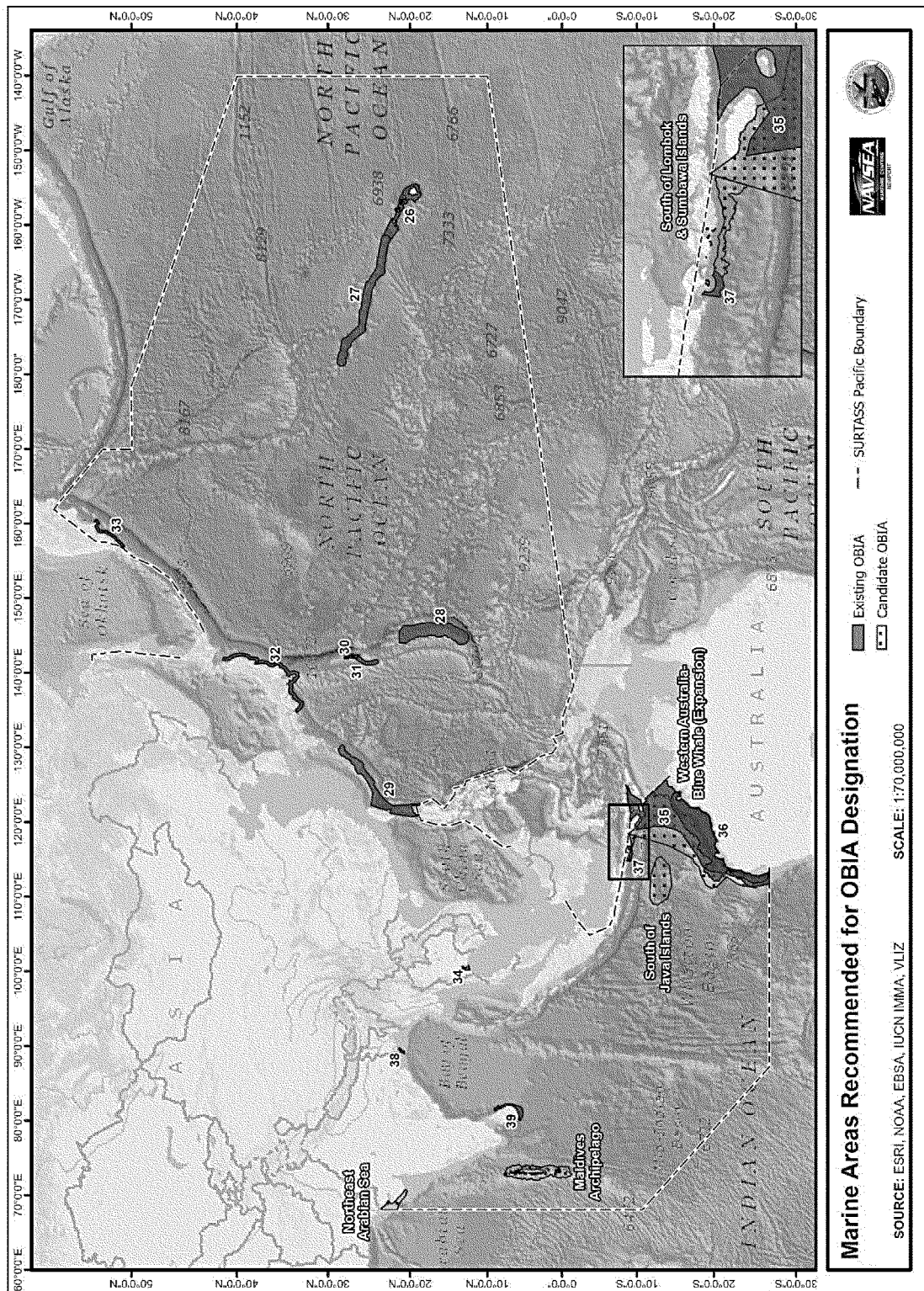


Figure 1 to paragraph (g)(1)—OBIAs for Marine Mammals in the Pacific SURTASS LFA Sonar Study Area

Table 1 to paragraph (g)(1)—OBIA for Marine Mammals in the Pacific SURTASS LFA

Sonar Study Area

OBIA Number	Name	Location/water body	Relevant marine mammal species	Effective period
26	Main Hawaiian Islands	Central North Pacific Ocean	Humpback whale	November to April
27	Northwestern Hawaiian Islands	Central North Pacific Ocean	Humpback whale	December to April
28	Mariana Islands	Western North Pacific Ocean	Humpback whale	February to April
29	Ryukyu-Philippines	Western North Pacific Ocean	Humpback whale	January to April
30	Ogasawara - Sperm whale	Western North Pacific Ocean	Sperm whale	June to September
31	Ogasawara-Kazin - Humpback whale	Western North Pacific Ocean	Humpback whale	December to May
32	Honshu	Western North Pacific Ocean	Gray whale	January to May
33	Southeast Kamchatka	Western North Pacific Ocean	Fin, gray (Western North Pacific stock), humpback, and North Pacific right whale	June to September
34	Gulf of Thailand	Eastern Indian Ocean	Bryde's whale	April to November
35	Western Australia - Blue whale	Eastern Indian Ocean	Blue (pygmy) whale	May to November
36	Western Australia - Humpback whale	Eastern Indian Ocean	Humpback whale	May to December
37	Southern Bali	Eastern Indian Ocean	Bryde's, humpback, Omura's, sei, and sperm whale	October to November
38	Swatch-of-No-Ground (SoNG)	Northern Bay of Bengal	Bryde's whale	Year-round
39	Sri Lanka	Eastern Indian Ocean	Blue (pygmy) and sperm whale	October to April
40	Maldives Archipelago	Central Indian Ocean	Blue (pygmy), Bryde's, humpback, and sperm whale	October to May
41	Northeast Arabian Sea	Arabian Sea	Blue, Bryde's, and humpback (Arabian Sea stock) whale	Year-round

42	South of Java Island	East Indian Ocean	Blue (pygmy) whale	October to November
43	South of Lombok Sumbawa Islands	East Indian Ocean	Blue (pygmy) whale	October to November

Note: Existing OBIA 35 (Western Australia - Blue whale) was expanded to include the entirety of the Eastern Indian Ocean blue whale migratory route.

BILLING CODE 3510-22-C

(3) Should national security require the Navy to exceed a requirement in paragraph (g)(1) of this section, personnel conducting the activity are required to obtain approval through the chain of command prior to commencement of the activity. The Navy must provide NMFS with notification as soon as is practicable and include the information (e.g., sonar hours in exceedance of 25 percent) in its annual activity reports submitted to NMFS.

(h) *Cetacean live stranding*. In the event of a cetacean live stranding (or near-shore atypical milling) event within the Study Area or within 50 km (27 nmi) of the boundary of the Study Area, where the NMFS Marine Mammal Stranding Network is engaged in herding or other interventions to return animals to the water, NMFS OPR will advise the Navy of the need to implement shutdown procedures for all active acoustic sources or explosive devices within 50 km of the stranding. Following this initial shutdown, NMFS will communicate with the Navy to determine whether circumstances support modification of the shutdown zone. The Navy may decline to implement all or part of the shutdown if the holder of the LOA, or his/her designee, determines that it is necessary for national security. Shutdown procedures for live stranding or milling cetaceans include the following:

(1) *Shutdown no longer needed*. If at any time, the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, NMFS will immediately advise that the shutdown around the animals' location is no longer needed;

(2) *Shutdown procedures remain in effect*. Otherwise, shutdown procedures will remain in effect until NMFS determines and advises that all live animals involved have left the area (either of their own volition or following an intervention); and

(3) *Further observations*. If further observations of the marine mammals indicate the potential for re-stranding, additional coordination will be required to determine what measures are

necessary to minimize that likelihood (e.g., extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

§ 218.235 Requirements for monitoring and reporting.

The Navy must implement the following monitoring and reporting requirements when conducting the specified activities:

(a) *Notification of take*. If the Navy reasonably believes that the specified activity identified in § 218.230 resulted in the mortality or serious injury of any marine mammals, or in any Level A harassment or Level B harassment of marine mammals not identified in this subpart, then the Navy shall notify NMFS immediately or as soon as operational security considerations allow.

(b) *Monitoring and reporting under the LOA*. The Navy must conduct all monitoring and reporting required under the LOA.

(c) *Notification of injured, live stranded, or dead marine mammals*. Navy personnel must abide by the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when dead, injured, or live stranded marine mammals are detected. The Notification and Reporting Plan is available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities>.

(d) *Mitigation monitoring*. The Navy must conduct all monitoring required under the LOA, including:

(1) *Visual Observations*. Visual observations must be conducted by trained Lookouts on the vessel's bridge using standard binoculars (7x) and the naked eye. Pedestal-mounted 'Big Eye' (20x110) binoculars (if installed) must be used to assist in the detection of marine mammals in the vicinity of the vessel.

(i) Lookouts must conduct visual monitoring from the vessel's bridge during all daylight hours (30 minutes before sunrise until 30 minutes after sunset);

(ii) During training and testing activities that employ SURTASS LFA sonar in the active mode, Lookouts must conduct visual monitoring beginning 30 minutes before sunrise or 30 minutes before SURTASS LFA sonar begins to transmit and continue until 30 minutes after sunset or until 15 minutes after the SURTASS LFA sonar transmissions cease.

(iii) Lookouts must log all detections of marine mammals during SURTASS LFA sonar transmissions during training and testing activities;

(iv) Lookouts must record the number, identification, bearing, and range of observed marine mammals during training and testing activities, and must identify marine mammals to the lowest taxonomic level possible; and

(v) Lookouts must continue visual observations until 15 minutes have passed since the last detection of the marine mammal.

(2) *Passive Acoustic Monitoring*. During training and testing activities that employ SURTASS LFA sonar in the active mode, Navy personnel must conduct passive acoustic monitoring using the SURTASS towed horizontal line array to detect vocalizing marine mammals.

(i) Passive acoustic monitoring must begin 30 minutes before the SURTASS LFA sonar begins to transmit and continue until 15 minutes after SURTASS LFA sonar transmissions cease.

(ii) If a detected sound is estimated to be from a vocalizing marine mammal, the sonar technician will notify the senior military member-in-charge, who must alert the HF/M3 sonar operator and Lookouts (during daylight).

(3) *Active Acoustic (HF/M3) Monitoring*. During training and testing activities that employ SURTASS LFA sonar in the active mode, Navy personnel must use the HF/M3 sonar to detect, locate, and track marine mammals in relation to the SURTASS LFA sonar array and the LFA mitigation zone, subject to the ramp-up requirements in § 218.234(e);

(i) HF/M3 sonar monitoring must begin 30 minutes before the SURTASS

LFA sonar begins to transmit and continue until 15 minutes after SURTASS LFA sonar transmissions cease.

(ii) If a marine mammal is detected during HF/M3 monitoring within the SURTASS LFA mitigation zone, the sonar operator must notify the senior military member-in-charge.

(4) *Cessation of Monitoring.* Navy personnel must continue monitoring either for at least 15 minutes after completion of the SURTASS LFA sonar training and testing transmission or, if marine mammals are exhibiting unusual changes in behavioral patterns, until behavior patterns return to normal or conditions prevent continued observations.

(e) *Designation of qualified individuals.* The Navy must designate qualified on-site individuals to conduct the mitigation, monitoring, and reporting activities specified in these regulations and LOA issued under §§ 216.106 of this chapter and 218.237.

(f) *Marine Mammal Monitoring Program.* The Navy must continue to assess data from the Marine Mammal Monitoring Program and work toward making some portion of that data, after appropriate security reviews, available to scientists with appropriate clearances. Any portions of the analyses conducted by these scientists based on these data that are determined to be unclassified after appropriate security reviews will be made publicly available.

(g) *Annual Study Area marine species monitoring report.* The Navy must submit an unclassified annual report of the Study Area marine species monitoring describing the implementation and results from the previous calendar year. Data collection will adhere to methods that allow for comparison to other range complexes and Study Areas in other geographic regions. The draft report must be submitted to the Director, Office of Protected Resources, NMFS, annually. NMFS will submit comments or questions on the report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after submittal of the draft if NMFS does not provide comments on the draft report. The report must describe progress of knowledge made with respect to new or continuing scientific knowledge of marine mammals.

(h) *Quick look reports.* In the event that the sound source amount analyzed in the preambles of the Marine Mammal Protection Act (MMPA) proposed rule (Citation, when available) and final rule (Citation, when available) were

exceeded within a given reporting year, the Navy must submit a preliminary report detailing the exceedance within 21 days after the anniversary date of issuance of the LOA.

(i) *Annual Pacific SURTASS LFA training and testing report.* The Navy must submit a classified and unclassified report (SURTASS LFA Annual Training and Testing Report) to the Director, Office of Protected Resources, NMFS, annually within 3 months of the one-year anniversary of the date of the issuance of the LOA. For the final reporting year, the Navy must submit a final/close-out (year 7) SURTASS LFA Annual Training and Testing Report. NMFS will submit comments or questions on the report, if any, within 1 month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 1 month after submittal of the drafts if NMFS does not provide comments on the draft report.

(1) *Annual Reports.* The SURTASS LFA Annual Training and Testing Report must include elements listed below. The analysis in the report must be based on the data from the current year's report and data collected from previous annual reports.

(i) Dates, times, and locations of each vessel during each training and testing activity;

(ii) Information on sonar transmissions during each training and testing activity, including:

(A) Total annual hours or quantity of each bin of sonar used in all training and testing events,

(B) Cumulative sonar use quantity from previous years' reports through the current year, and

(C) Records of any sonar delays or suspensions due to the presence of marine mammals.

(iii) Marine mammal sighting information for each sighting in each exercise where mitigation was implemented:

(A) Date, time, and location of sighting;

(B) Species (if not possible, indication of whale/dolphin/pinniped);

(C) Number of individuals;

(D) Initial Detection Sensor (*e.g.*, visual, passive acoustic, HF/M3 sonar);

(E) Indication of specific type of platform observation was made from (including, for example, what type of surface vessel or testing platform);

(F) Length of time observers maintained visual contact with marine mammal;

(G) Sea state;

(H) Visibility;

(I) Sound source in use at the time of sighting;

(J) Indication of whether animal was less than 200 yd (182.9 m), 200 to 500 yd (182.9 to 457.2 m), 500 to 1,000 yd (457.2 to 914.4 m), 1,000 to 2,000 yd (914.4 m to 1.8 km), or greater than 2,000 yd (1.8 km) from sonar source;

(K) Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and the length of delay;

(L) Bearing and range from the vessel; and

(M) For visual observations, Lookouts must report the observed behavior of the animal(s) in plain language and without trying to categorize in any way (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, *etc.*) and if any calves were present.

(iv) An evaluation (based on data gathered during the reporting year) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation must identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(2) *Final/close-out Report.* The final/close-out report at the conclusion of the authorization period (year 7) will also serve as the comprehensive close-out report and provide the annual totals for each sound source bin with a comparison to the annual amount analyzed and the 7-year total for each sound source bin with a comparison to the 7-year amount analyzed.

§ 218.236 Letter of Authorization.

(a) To incidentally take marine mammals pursuant to this subpart, the Navy must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of this subpart.

(c) In the event of projected changes to the activity or to mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision of § 218.237(c)(1)) required by an LOA, the Navy must apply for and obtain a modification of the LOA as described in § 218.237.

(d) The LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Geographic areas for incidental taking;

(3) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species and stocks of marine mammals and their habitat; and

(4) Requirements for monitoring and reporting.

(e) Issuance of the LOA must be based on a determination that the level of

taking is consistent with the findings made for the total taking allowable under the regulations of this subpart.

(f) Notice of issuance or denial of the LOA will be published in the **Federal Register** within 30 days of a determination.

§ 218.237 Modifications of Letter of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 218.236 for the activity identified in § 218.230(c) shall be modified, upon request by the Navy, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations in this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under this subpart were implemented.

(b) For LOA modification requests by the applicant that include changes to the activity or to the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in

paragraph (c)(1) of this section), the LOA should be modified provided that:

(1) NMFS determines that the change(s) to the activity or the mitigation, monitoring, or reporting do not change the findings made for this subpart and do not result in more than a minor change in the total estimated number of takes (or distribution by species or stock or years); and

(2) NMFS may publish a notice of proposed modified LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 218.236 for the activities identified in § 218.230(c) may be modified by NMFS OPR under the following circumstances:

(1) After consulting with the Navy regarding the practicability of the modifications, through adaptive management, NMFS may modify (including remove, revise, or add to) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring measures set forth in this subpart.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting

measures in an LOA include, but are not limited to:

(A) Results from the Navy's monitoring report and annual exercise reports from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by this subpart or a subsequent LOA.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall publish a notice of proposed LOA(s) in the **Federal Register** and solicit public comment.

(2) If NMFS OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 218.236, a LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§§ 218.238–218.239 [Reserved]

[FR Doc. 2026–04668 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–22–P



FEDERAL REGISTER

Vol. 91

Tuesday,

No. 46

March 10, 2026

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2026 and 2027 Harvest Specifications for Groundfish; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066; RTID 0648–XF348]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2026 and 2027 Harvest Specifications for Groundfish

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

ACTION: Final rule; harvest specifications and closures.

SUMMARY: NMFS announces the final 2026 and 2027 harvest specifications, apportionments, and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the remainder of the 2026 and the start of the 2027 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the BSAI (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Harvest specifications and closures are effective from 1200 hours, Alaska local time (A.l.t.), March 18, 2026, through 1200 hours, A.l.t., March 18, 2027.

ADDRESSES: Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD) for the Final EIS, and the annual Supplementary Information Reports (SIR) to the Final EIS prepared for this action are available at: <https://www.regulations.gov>. The 2024 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2024, as well as the SAFE reports for previous years, are available from the North Pacific Fishery Management Council (Council) at 1007 West Third Ave., Suite 400, Anchorage, AK 99501, phone 907–271–2809, or from the Council's website at: <https://www.npfmc.org/>, and the Alaska Fisheries Science Center website at: <https://www.fisheries.noaa.gov/alaska/population-assessments/north-pacific-groundfish-stock-assessments-and-fishery-evaluation>.

groundfish-stock-assessments-and-fishery-evaluation.

FOR FURTHER INFORMATION CONTACT: Andrew Olson and Steven Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually an overfishing limit (OFL), acceptable biological catch (ABC), and total allowable catch (TAC) for each target species (§ 679.20(a) and (c)). The sum of all TACs for target groundfish species in the BSAI must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)(A) and (a)(2)). This final rule specifies the sum of the TACs at 2.0 million mt for 2026 and 2.0 million mt for 2027. NMFS also must specify: (1) apportionments of TACs; (2) PSC limits and prohibited species quota (PSQ) reserves established by § 679.21; (3) seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC; (4) American Fisheries Act (AFA) allocations; (5) Amendment 80 allocations; (6) Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii); (7) ABC surpluses and ABC reserves for CDQ groups and any Amendment 80 cooperatives for flathead sole, rock sole, and yellowfin sole; and (8) halibut discard mortality rates (DMR). The final harvest specifications set forth in tables 1 through 25 of this action satisfy these requirements.

Section 679.20(c)(3)(i) requires that NMFS consider public comment on the proposed harvest specifications and, after consultation with the Council, publish final harvest specifications in the **Federal Register**. The proposed 2026 and 2027 harvest specifications for the groundfish fishery of the BSAI were published in the **Federal Register** on December 16, 2025 (90 FR 58204). Comments were invited and accepted through January 5, 2026. Five comment letters were received during the comment period, and no changes were made in response to the comments. NMFS's responses are included in the Response to Comments section below.

Under § 679.20(c)(3), NMFS is publishing the final 2026 and 2027 harvest specifications after: (1)

considering comments received within the comment period; (2) consulting with the Council at its December 2025 meeting; (3) considering information presented in the 2026 SIR to the Final EIS that assesses the need to prepare a Supplemental EIS (see **ADDRESSES**); and (4) considering information presented in the final 2024 SAFE report, including the 2024 Ecosystem Status Reports (ESR) for both the Bering Sea (BS) and Aleutian Islands (AI) ecosystems (see **ADDRESSES**). The final 2026 and 2027 harvest specifications are effective from 1200 hours, A.l.t., March 18, 2026, through 1200 hours, A.l.t., March 18, 2027.

Harvest Specification Process

The specifications are based on the most recent biological, ecosystem, socioeconomic, and harvest information about the condition of the BSAI groundfish stocks and the review and recommendations of the BSAI Groundfish Plan Team (Plan Team), Scientific and Statistical Committee (SSC), Advisory Panel (AP), and the Council. These specifications were developed in compliance with the harvest strategy from the FMP and the Final EIS and ROD.

The most recent reviewed information available to inform these specifications includes the 2024 SAFE report for the BSAI groundfish stocks (see **ADDRESSES**). The stock assessments that comprise the SAFE report contain a review of the latest scientific analyses available and estimates of each stock or stock complex's biomass and other biological parameters including possible future condition of the stocks, as well as summaries of the available information on the BSAI ecosystem and the economic condition of the BSAI groundfish fisheries off Alaska. The SAFE report provides information to the Council and NMFS for recommending and setting annual harvest levels for each stock or stock complex and documenting significant trends or changes in the resource, marine ecosystems, and fisheries over time. The individual stock assessments that comprise the 2024 SAFE report are available at: <https://www.fisheries.noaa.gov/alaska/population-assessments/north-pacific-groundfish-stock-assessment-and-fishery-evaluation>.

The ESRs are a component of the SAFE report. The ESRs compile and summarize information about the status of the Alaska marine ecosystems for the Plan Team, SSC, AP, Council, NMFS, and the public, and are updated annually. The ESRs include ecosystem report cards, ecosystem assessments,

and ecosystem-based management indicators (e.g., climate indices, sea surface temperature), which together provide context for ecosystem-based fisheries management in Alaska. The ESRs inform stock assessments and are integrated into the annual harvest recommendations through inclusion in stock assessments, including stock-specific risk tables that identify considerations informing any additional scientific uncertainty relevant to the specification of ABC. The ESR information provides context for the SSC's recommendations for OFLs and ABCs, as well as for the Council's TAC recommendations. The SAFE reports and the ESRs are typically presented at the October and December Council meetings before the SSC, AP, and the Council for making groundfish harvest specification recommendations and aid NMFS in implementing these annual groundfish harvest specifications.

In September 2025, the Plan Team met and recommended proposed harvest specifications for 2026 and 2027 based on the 2024 SAFE report. In October 2025, the SSC reviewed these recommendations and other available relevant information and made recommendations on proposed OFLs and ABCs to the Council. After reviewing the available information, the Council recommended proposed 2026 and 2027 OFLs, ABCs, and TACs in October 2025. NMFS subsequently reviewed those recommendations, and NMFS published the proposed specifications for public comment on December 16, 2025 (90 FR 58204). The proposed 2026 and 2027 harvest specifications were based on the 2024 SAFE report and on the final 2026 specifications that were reviewed by the Plan Team, SSC, and the Council in 2024 and published in the **Federal Register** on March 18, 2025 (90 FR 12640).

NMFS was unable to prepare new stock assessments that were scheduled for updates this year for the 2025 SAFE report or new ESRs. The November Groundfish Plan Team meetings were canceled since there were no updated stock assessments to review at that time. At the December Council meeting, the SSC used the best scientific information available to make recommendations on final 2026 and 2027 OFLs and ABCs. This information included the 2024 stock assessments (which already included projected OFLs and ABCs for 2026) and the stock-specific risk tables included with those assessments; Plan Team recommendations from its 2024 and September 2025 meetings; catch reports for each stock and stock complex comparing recent catch data to

TACs, ABCs, and OFLs; tables summarizing relevant information on groundfish stocks and stock complexes that included biomass and survey trends; information available from the 2025 Alaska Fisheries Science Center (AFSC) surveys; and available ESR information that included the 2024 ESRs and the ESR previews presented to Plan Team and SSC in September and October 2025, respectively. More information on the SSC's review is provided in the December 2025 report: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=74322a78-4de1-451c-a10f-13b11286f8b9.pdf&fileName=Draft%20SSC%20Report%20Dec%202025.pdf>. The Council then reviewed this information and the recommendations from the SSC for OFLs and ABCs, as well as the recommendations from the AP for TACs, and recommended final 2026 and 2027 TACs.

The 2026 and 2027 OFLs and ABCs are based on the best available biological and scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMP specifies the tiers to be used to calculate OFLs and ABCs. The tier applicable to a particular stock or stock complex is determined by the level of reliable information available to the fisheries scientists. This information is categorized into a successive series of six tiers to define OFLs and ABCs, with tier 1 representing the highest level of information quality available and tier 6 representing the lowest level of information quality available. This tier structure was used to calculate the 2026 and 2027 OFLs and ABCs for each stock or stock complex. In December 2025, the SSC adopted the 2026 and 2027 OFLs and ABCs that were recommended as proposed specifications by the Plan Team for all groundfish species in September 2025 and the SSC in October 2025. Because the 2024 SAFE report does not set OFLs and ABCs for 2027, the SSC set the 2027 OFLs and ABCs equal to 2026. These 2027 OFLs and ABCs will be superseded by the final 2027 and 2028 harvest specifications.

The 2026 and 2027 TACs are based on the best available biological and socioeconomic information consistent with § 679.20(a)(3). In making its recommendations, the Council adopted the SSC's OFL and ABC recommendations and the AP's TAC recommendations for all groundfish stocks and stock complexes.

NMFS finds that the recommended OFLs, ABCs, and TACs are consistent

with the biological condition of the groundfish stocks as described in the 2024 SAFE report and in consideration of ecosystem information presented in the ESRs. NMFS also finds that the Council's recommendations for TACs are consistent with the biological condition of groundfish stocks as adjusted for other biological and socioeconomic considerations, including maintaining the sum of all TACs within the OY range of 1.4 million to 2.0 million mt (§ 679.20(a)(2) and (a)(3)). Consistent with National Standard 1 guidelines (50 CFR 600.310), the annual catch limit rules for all fisheries (74 FR 3178, January 16, 2009), and the FMP, none of the Council's recommended 2026 or 2027 TACs exceed the final 2026 or 2027 ABCs for any stock or stock complex. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the preferred harvest strategy outlined in the FMP, as well as the Final EIS and ROD, and the biological condition of groundfish stocks as described in the 2024 SAFE report that was approved by the Council, while accounting for ecosystem, socioeconomic, and harvest information presented in the final 2024 SAFE report, including the ESRs for both the BS and AI.

NMFS has reviewed the recommendations of the SSC and Council for OFLs, ABCs, and TACs for stocks and stock complexes in the BSAI as well as any other relevant information. Based on that review, NMFS is specifying the OFLs, ABCs, and TACs set forth in the tables of this final rule as consistent with the Magnuson-Stevens Act, the FMP, and other applicable law. Therefore, this final rule provides notification that NMFS approves the final 2026 and 2027 harvest specifications as recommended by the Council.

The 2026 harvest specifications set in this final action supersede the 2026 harvest specifications previously set in the final 2025 and 2026 harvest specifications (90 FR 12640, March 18, 2025). Pursuant to this final action, the 2026 harvest specifications are effective from 1200 hours, A.l.t., March 18, 2026, through 2400 hours, A.l.t., December 31, 2026, and the 2027 harvest specifications are effective from 0001 hours, A.l.t., January 1, 2027, through 1200 hours, A.l.t., March 18, 2027.

Other Actions Affecting the 2026 and 2027 Harvest Specifications

State of Alaska Guideline Harvest Levels

The State of Alaska Board of Fisheries (BOF) established the guideline harvest level (GHL) for vessels using pot,

longline, jig, and hand troll gear in the State of Alaska's (State) AI sablefish registration area that includes all State waters west of Scotch Cap Light (164°44.72' W longitude) and south of Cape Sarichef (54°36' N latitude). The 2026 AI GHL is set at 5 percent (1,223 mt) of the combined 2026 Bering Sea (BS) subarea and Aleutian Islands (AI) subarea apportionment of ABC. The 2027 AI GHL is set at 5 percent (1,223 mt) of the combined 2027 BS subarea and AI subarea apportionment of ABC. The State's AI sablefish registration area includes areas adjacent to parts of the BS subarea. Since most of the State's 2026 and 2027 GHL sablefish fishery is expected to occur in State waters adjacent to the BS subarea, the Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal sablefish removals not exceed the recommended apportionment of ABC for sablefish in the BS and AI subareas. Accordingly, after reviewing the Council recommendations, NMFS approves 2026 and 2027 sablefish TACs in the BS and AI subareas that account for the State's GHLs for sablefish caught in State waters.

The State's GHL for Pacific cod for vessels using pot gear in State waters in the BS is equal to 13 percent of the Pacific cod ABC for the BS subarea. Under the State's management plan, the BS GHL will increase by 1 percent if 90 percent of the GHL is harvested by November 15 of the preceding year for 2 consecutive years but may not exceed 15 percent of the BS subarea ABC. If 90 percent of the GHL is not harvested by November 15 of the preceding year for 2 consecutive years, the GHL will decrease by 1 percent, but the GHL may not decrease below 10 percent of the BS subarea ABC. For 2026, the GHL for vessels using pot gear will remain the same as the GHL set in 2025 at 13 percent of the BS subarea ABC, which is 18,398 mt. The GHL for 2027 may change based on harvest during the preceding fishing years, and any adjustment based on the 2027 GHL will be accounted for in the final 2027 and 2028 harvest specifications. Additionally, the State has established a GHL for vessels using jig gear in State waters in the BS equal to 45 mt of Pacific cod in the BS. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal Pacific cod removals not exceed the ABC recommendations for Pacific cod in the BS subarea. Accordingly, after reviewing the Council recommendations, NMFS approves 2026 and 2027 Pacific cod

TACs in the BS subarea that account for the State's GHLs for Pacific cod caught in State waters in the BS.

In 2025, the State's GHL for Pacific cod in State waters in the AI was equal to 35 percent of the AI ABC. The AI GHL will increase annually by 4 percent of the AI subarea ABC if 90 percent of the GHL is harvested by November 15 of the preceding year, but may not exceed 39 percent of the AI subarea ABC or 15 million pounds (6,804 mt). If 90 percent of the GHL is not harvested by November 15 of the preceding year for 2 consecutive years, the GHL will decrease by 4 percent, but the GHL may not decrease below 15 percent of the AI subarea ABC. For 2026, the GHL decreased to 31 percent (a 4 percent reduction) of the AI subarea ABC, which is 4,022 mt. The GHL for 2027 may change based on harvest during the preceding fishing years, and any adjustment based on the 2027 GHL will be accounted for in the final 2027 and 2028 harvest specifications. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal Pacific cod removals not exceed the ABC recommendations for Pacific cod in the AI subarea. Accordingly, after reviewing the Council recommendations, NMFS approves 2026 and 2027 Pacific cod TACs in the AI subarea that account for the State's GHLs for Pacific cod caught in State waters in the AI.

Changes in TACs From the Proposed 2026 and 2027 Harvest Specifications for the BSAI

In November of each year, the Plan Team typically updates the SAFE report to include new information collected such as NMFS surveys, revised stock assessments drafted by stock assessment authors, and catch data. This past November, there was a disruption in the completion of the stock assessments that were scheduled for update in 2025. The stock assessments were not completed in time for the Plan Team's meeting in November and the Plan Team was unable to meet to review, update, and finalize the 2025 SAFE report.

At the September 2025 Plan Team meeting, NMFS scientists presented updated and new survey results and a preview of ecosystem status information for the ESRs. Scientists also discussed potential changes to assessment models, and accompanying preliminary stock estimates. At the October 2025 Council meeting, the SSC reviewed this information. Normally, the Plan Team would then review at the November Plan Team meeting survey results, model changes, and updated stock assessments for groundfish stocks

(consistent with the schedule for review of those stock assessments), which the SSC would then review, along with the Plan Team recommendations, at the December SSC meeting. Model changes based on SSC recommendations often result in changes to final OFLs, ABCs, and TACs. This year, however, there are limited changes between the proposed and final specifications because no updated stock assessments could be prepared and so no model changes or additional review were completed by the Plan Team in November 2025 due to the lapse in appropriations and the government shutdown.

In October 2025, the Council's recommendations for the proposed 2026 and 2027 harvest specifications (90 FR 58204, December 16, 2025) were based on information contained in the 2024 SAFE report for the BSAI groundfish fisheries, dated November 2024. In October 2025, the Council recommended that proposed 2026 and 2027 OFLs and ABCs be based on rollovers of the 2026 amounts from the final 2025 and 2026 harvest specifications (90 FR 12640, March 18, 2025). In making this recommendation, the Council used the best information available from the 2024 stock assessments.

In December 2025, the Council's recommendations for the final 2026 and 2027 harvest specifications were based on information contained in the 2024 SAFE report for the BSAI groundfish fisheries, dated November 2024, due to a disruption in the completion of the stock assessments that were scheduled for update in 2025 and the Plan Team did not meet in November to review, update, and finalize the 2025 SAFE report. However, the 2024 SAFE report as well as the additional information available for the SSC's and Council's review is the best scientific information available. The 2024 SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters (including stock projections for 2026), as well as summaries of the available information on the BSAI ecosystem, including the stock-specific risk tables and information from the BS ESR and AI ESR. SSC and Council recommendations were also informed by Plan Team recommendations from 2024 and September 2025 meetings; catch reports and relevant information on biomass and survey trends for each stock and stock complex; 2025 AFSC surveys; and ESR information in addition to the 2024 ESRs (ESR previews presented to Plan Team and SSC in September and October 2025).

The AP and Council review the recommended OFLs and ABCs, and in turn recommended TACs for each stock and stock complex such that TACs do not exceed ABCs and ABCs do not exceed OFLs. The Council recommended to increase the AI subarea Pacific cod TAC by 519 mt in 2026 and to increase the TAC by 519 mt in 2027 from the proposed TAC. This increase corresponds to the decrease in the State GHL. The only TAC reduction was for

Alaska plaice, which was reduced from the TAC in the proposed rule by 518 mt in 2026 and by 518 mt in 2027 due to anticipated decreased incidental catches in other fisheries. This decrease was necessitated by the increase of Pacific cod TACs in order to keep the sum of TACs in the BSAI from exceeding the 2.0 million mt limit. These changes are compared in table A. The final TACs, including the limited changes to TACs between the proposed and final harvest

specifications, are based on the most recent scientific, biological, and socioeconomic information and are consistent with the FMP, regulatory obligations, and the harvest strategy from the Final EIS and ROD as described in the proposed and final harvest specifications, including the required OY range of 1.4 million to 2.0 million mt.

Table A -- Stocks or stock complexes with differences between Proposed and Final 2026 and 2027 BSAI TACs (values are rounded to the nearest metric ton and percent difference)

Species	Area ¹	2026 and 2027 proposed TAC	2026 final TAC	2026 difference from proposed	2026 percentage difference from proposed	2027 final TAC	2027 difference from proposed	2027 percentage difference from proposed
Pacific cod	AI	8,432	8,951	519	6	8,951	519	6
Alaska plaice	BSAI	16,200	15,682	-518	-3	15,682	-518	-3
Total all species	BSAI	1,999,999	2,000,000	1	0	2,000,000	1	0

Note: Sector apportionments may not total precisely due to rounding.

¹ Aleutian Islands subarea (AI) and Bering Sea and Aleutian Islands management area (BSAI).

Table 1 lists the final 2026 OFL, ABC, TAC, initial TAC (ITAC), CDQ reserve allocations, and nonspecified reserves of the BSAI groundfish stocks and stock complexes; and table 2 lists the final 2027 OFL, ABC, TAC, ITAC, CDQ reserve allocations, and nonspecified

reserves of the BSAI groundfish stocks and stock complexes. These final 2026 and 2027 TAC amounts for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any stock and stock complex. These final 2026 and 2027 ABCs do not exceed the

OFL for any stock and stock complex. The apportionment of TAC amounts among fisheries and seasons is discussed below.

BILLING CODE 3510-22-P

Table 1 -- Final 2026 OFL, ABC, TAC, ITAC, CDQ Reserve Allocation, and Nonspecified Reserves of Groundfish in the BSAI¹ (values are rounded to the nearest metric ton)

Species	Area	2026					
		OFL	ABC	TAC	ITAC ²	CDQ ³	Nonspecified Reserves
Pollock ⁴	BS	2,496,000	2,036,000	1,375,000	1,237,500	137,500	n/a
	AI	56,231	46,437	19,000	17,100	1,900	n/a
	Bogoslof	77,354	58,015	250	250	n/a	n/a
Pacific Cod ⁵	BS	169,243	141,520	123,077	109,908	13,169	n/a
	AI	16,273	12,973	8,951	7,993	958	n/a
Sablefish ⁶	Alaska-wide	57,797	47,008	n/a	0	n/a	0
	BS	n/a	13,037	8,996	7,422	1,237	337
	AI	n/a	11,421	7,440	6,045	1,256	140
Yellowfin Sole	BSAI	305,039	267,639	145,000	129,485	15,515	n/a
Greenland turbot	BSAI	2,059	1,328	1,328	1,129	n/a	0
	BS	n/a	1,120	1,120	952	120	48
	AI	n/a	208	208	177	n/a	31
Arrowtooth flounder	BSAI	102,472	87,035	14,000	11,900	1,498	602
Kamchatka flounder	BSAI	7,790	6,606	6,606	5,615	n/a	991
Rock sole ⁷	BSAI	166,220	158,225	75,000	66,975	8,025	n/a
Flathead sole ⁸	BSAI	106,283	87,700	36,000	32,148	3,852	n/a
Alaska plaice	BSAI	33,965	28,230	15,682	13,330	n/a	2,352
Other flatfish ⁹	BSAI	26,083	19,562	4,500	3,825	n/a	675
Pacific ocean perch	BSAI	43,084	36,578	33,490	29,481	n/a	0
	BS	n/a	9,905	9,905	8,419	n/a	1,486
	EAI	n/a	6,144	6,144	5,487	657	0
	CAI	n/a	5,441	5,441	4,859	582	0
	WAI	n/a	15,088	12,000	10,716	1,284	0
Northern rockfish	BSAI	22,284	18,232	12,000	10,200	n/a	1,800
Blackspotted/Rougheye rockfish ¹⁰	BSAI	902	766	766	651	n/a	0
	BS/EAI	n/a	441	441	375	n/a	66
	CAI/WAI	n/a	325	325	276	n/a	49
Shortraker rockfish	BSAI	631	473	473	402	n/a	71

Other rockfish ¹¹	BSAI	1,406	1,054	1,054	896	n/a	0
	BS	n/a	639	639	543	n/a	96
	AI	n/a	415	415	353	n/a	62
Atka mackerel	BSAI	107,889	92,361	82,941	74,066	8,875	n/a
	BS/EAI	n/a	41,731	41,731	37,266	4,465	n/a
	CAI	n/a	23,716	23,716	21,178	2,538	n/a
	WAI	n/a	26,914	17,494	15,622	1,872	n/a
Skates	BSAI	43,285	35,833	27,646	23,499	n/a	4,147
Sharks	BSAI	689	450	400	340	n/a	60
Octopuses	BSAI	6,080	4,560	400	340	n/a	60
Total	n/a	3,849,059	3,188,585	2,000,000	1,790,499	196,428	13,073

Note: Sector apportionments may not total precisely due to rounding. Regulatory areas and districts are defined at § 679.2 (BSAI = Bering Sea and Aleutian Islands management area, BS = Bering Sea subarea, AI = Aleutian Islands subarea, EAI = Eastern Aleutian District, CAI = Central Aleutian District, WAI = Western Aleutian District). The 2026 harvest specifications are effective from 1200 hours, A.l.t., March 18, 2026, through 2400 hours, A.l.t., December 31, 2026.

¹ These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the BS subarea includes the Bogoslof District.

² Except for pollock, the portion of the sablefish TAC allocated to fixed gear, and Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead sole, Pacific cod, and AI Pacific ocean perch), 15 percent of each TAC is placed into a nonspecified reserve (§ 679.20(b)(1)(i)). The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 4).

³ For the Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead sole, Pacific cod, and AI Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(C)). Twenty percent of the sablefish TAC allocated to fixed gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for BS Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(B) and (b)(1)(ii)(D)). For BS pollock and AI pollock, 10 percent is reserved as a CDQ directed fishing allowance (§ 679.20(b)(1)(ii)(A)). AI Greenland turbot, "other flatfish," Alaska plaice, BS Pacific ocean perch, Kamchatka flounder, northern rockfish, blackspotted/rougheye rockfish, shortraker rockfish, "other rockfish," skates, sharks, and octopuses are not allocated to the CDQ Program.

⁴ Section 679.20(a)(5)(iii)(B)(I) requires the AI pollock TAC to be set at 19,000 mt when the AI pollock ABC equals or exceeds 19,000 mt. The Bogoslof pollock TAC is set to accommodate incidental catch amounts.

⁵ The BS Pacific cod TAC is set to account for the 13 percent, plus 45 mt, of the BS apportionment of ABC for the State's guideline harvest level in State waters. The AI Pacific cod TAC is set to account for 31 percent of the AI apportionment of ABC for the State's guideline harvest level in State waters.

⁶ The sablefish OFL and ABC are Alaska-wide and include the Gulf of Alaska. The Alaska-wide sablefish OFL and ABC are included in the total OFL and ABC. The BS and AI sablefish TACs are set to account for the 5 percent of the BS and AI apportionment of ABC for the State's guideline harvest level in State waters.

⁷ "Rock sole" includes *Lepidopsetta polyxystra* (northern rock sole) and *Lepidopsetta bilineata* (southern rock sole).

⁸ "Flathead sole" includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

⁹ "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

¹⁰ "Blackspotted/Rougheye rockfish" includes *Sebastes melanostictus* (blackspotted) and *Sebastes aleutianus* (rougheye).

¹¹ "Other rockfish" includes all *Sebastes* and *Sebastolobus* species, except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

Table 2 -- Final 2027 OFL, ABC, TAC, ITAC, CDQ Reserve Allocation, and Nonspecified Reserves of Groundfish in the BSAI¹ (values are rounded to the nearest metric ton)

Species	Area	2027					
		OFL	ABC	TAC	ITAC ²	CDQ ³	Nonspecified Reserves
Pollock ⁴	BS	2,496,000	2,036,000	1,375,000	1,237,500	137,500	n/a
	AI	56,231	46,437	19,000	17,100	1,900	n/a
	Bogoslof	77,354	58,015	250	250	n/a	n/a
Pacific Cod ⁵	BS	169,243	141,520	123,077	109,908	13,169	n/a
	AI	16,273	12,973	8,951	7,993	958	n/a
Sablefish ⁶	Alaska-wide	57,797	47,008	n/a	0	n/a	0
	BS	n/a	13,037	8,996	7,422	1,237	337
	AI	n/a	11,421	7,440	6,045	1,256	140
Yellowfin Sole	BSAI	305,039	267,639	145,000	129,485	15,515	n/a
Greenland turbot	BSAI	2,059	1,328	1,328	1,129	n/a	0
	BS	n/a	1,120	1,120	952	120	48
	AI	n/a	208	208	177	n/a	31
Arrowtooth flounder	BSAI	102,472	87,035	14,000	11,900	1,498	602
Kamchatka flounder	BSAI	7,790	6,606	6,606	5,615	n/a	991
Rock sole ⁷	BSAI	166,220	158,225	75,000	66,975	8,025	n/a
Flathead sole ⁸	BSAI	106,283	87,700	36,000	32,148	3,852	n/a
Alaska plaice	BSAI	33,965	28,230	15,682	13,330	n/a	2,352
Other flatfish ⁹	BSAI	26,083	19,562	4,500	3,825	n/a	675
Pacific ocean perch	BSAI	43,084	36,578	33,490	29,481	n/a	0
	BS	n/a	9,905	9,905	8,419	n/a	1,486
	EAI	n/a	6,144	6,144	5,487	657	0
	CAI	n/a	5,441	5,441	4,859	582	0
	WAI	n/a	15,088	12,000	10,716	1,284	0
Northern rockfish	BSAI	22,284	18,232	12,000	10,200	n/a	1,800
Blackspotted/Rougheye rockfish ¹⁰	BSAI	902	766	766	651	n/a	0
	BS/EAI	n/a	441	441	375	n/a	66
	CAI/WAI	n/a	325	325	276	n/a	49
Shortraker rockfish	BSAI	631	473	473	402	n/a	71

Other rockfish ¹¹	BSAI	1,406	1,054	1,054	896	n/a	0
	BS	n/a	639	639	543	n/a	96
	AI	n/a	415	415	353	n/a	62
Atka mackerel	BSAI	107,889	92,361	82,941	74,066	8,875	n/a
	BS/EAI	n/a	41,731	41,731	37,266	4,465	n/a
	CAI	n/a	23,716	23,716	21,178	2,538	n/a
	WAI	n/a	26,914	17,494	15,622	1,872	n/a
Skates	BSAI	43,285	35,833	27,646	23,499	n/a	4,147
Sharks	BSAI	689	450	400	340	n/a	60
Octopuses	BSAI	6,080	4,560	400	340	n/a	60
Total	n/a	3,849,059	3,188,585	2,000,000	1,790,499	196,428	13,073

Note: Sector apportionments may not total precisely due to rounding. Regulatory areas and districts are defined at § 679.2 (BSAI = Bering Sea and Aleutian Islands management area, BS = Bering Sea subarea, AI = Aleutian Islands subarea, EAI = Eastern Aleutian District, CAI = Central Aleutian District, WAI = Western Aleutian District). The 2027 harvest specifications are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the BS subarea includes the Bogoslof District.

² Except for pollock, the portion of the sablefish TAC allocated to fixed gear, and Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead sole, Pacific cod, and AI Pacific ocean perch), 15 percent of each TAC is placed into a nonspecified reserve (§ 679.20(b)(1)(i)). The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 4).

³ For the Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead sole, Pacific cod, and AI Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(C)). Twenty percent of the sablefish TAC allocated to fixed gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for BS Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(B) and (b)(1)(ii)(D)). For BS pollock and AI pollock, 10 percent is reserved as a CDQ directed fishing allowance (§ 679.20(b)(1)(ii)(A)). AI Greenland turbot, “other flatfish,” Alaska plaice, BS Pacific ocean perch, Kamchatka flounder, northern rockfish, blackspotted/rougheye rockfish, shortraker rockfish, “other rockfish,” skates, sharks, and octopuses are not allocated to the CDQ Program.

⁴ Section 679.20(a)(5)(iii)(B)(I) requires the AI pollock TAC to be set at 19,000 mt when the AI pollock ABC equals or exceeds 19,000 mt. The Bogoslof pollock TAC is set to accommodate incidental catch amounts.

⁵ The BS Pacific cod TAC is set to account for the 13 percent, plus 45 mt, of the BS apportionment of ABC for the State’s guideline harvest level in State waters. The AI Pacific cod TAC is set to account for 31 percent of the AI apportionment of ABC for the State’s guideline harvest level in State waters.

⁶ The sablefish OFL and ABC are Alaska-wide and include the Gulf of Alaska. The Alaska-wide sablefish OFL and ABC are included in the total OFL and ABC. The BS and AI sablefish TACs are set to account for the 5 percent of the BS and AI apportionment of ABC for the State’s guideline harvest level in State waters.

⁷ “Rock sole” includes *Lepidopsetta polyxystra* (northern rock sole) and *Lepidopsetta bilineata* (southern rock sole).

⁸ “Flathead sole” includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

⁹ “Other flatfish” includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

¹⁰ “Blackspotted/Rougheye rockfish” includes *Sebastes melanostictus* (blackspotted) and *Sebastes aleutianus* (rougheye).

¹¹ “Other rockfish” includes all *Sebastes* and *Sebastolobus* species, except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

BILLING CODE 3510-22-C

Groundfish Reserves and the ICAs for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and AI Pacific Ocean Perch

Section 679.20(b)(1)(i) requires that NMFS reserve 15 percent of the TAC for each target species category (except for pollock, fixed gear allocation of sablefish, and Amendment 80 species) in a nonspecified reserve. Section 679.20(b)(1)(ii)(B) requires that NMFS allocate 20 percent of the fixed gear allocation of sablefish to the fixed gear sablefish CDQ reserve for each subarea. Section 679.20(b)(1)(ii)(D) requires that NMFS allocate 7.5 percent of the trawl gear allocations of sablefish for each subarea from the nonspecified reserve and 10.7 percent of the BS subarea Greenland turbot and BSAI arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that NMFS allocate 10.7 percent of the TACs for Atka mackerel, AI Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod (the Amendment 80 species) to the respective CDQ reserves.

Sections 679.20(a)(5)(i)(A) and 679.31(a) require allocation of 10 percent of the BS subarea pollock TAC to the pollock CDQ directed fishing allowance (DFA). Sections 679.20(a)(5)(iii)(B)(2)(i) and 679.31(a) require 10 percent of the AI pollock TAC be allocated to the pollock CDQ DFA. The entire Bogoslof District pollock TAC is allocated as an incidental catch allowance (ICA)

pursuant to § 679.20(a)(5)(ii) because the Bogoslof District is closed to directed fishing for pollock by regulation (§ 679.22(a)(7)(B)). With the exception of the fixed gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear. Pursuant to § 679.20(a)(5)(i)(A)(1), NMFS establishes a pollock ICA of 46,000 mt of the BS subarea pollock TAC after subtracting the 10 percent CDQ DFA. This allowance is based on NMFS's examination of the pollock incidentally retained and discarded catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock in recent years. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS establishes a pollock ICA of 4,500 mt of the AI subarea pollock TAC after subtracting the 10 percent CDQ DFA. This allowance is based on NMFS's examination of the pollock incidentally retained and discarded catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock in recent years.

After subtracting the 10.7 percent CDQ reserve and pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 2,000 mt of flathead sole, 3,000 mt of rock sole, 2,000 mt of yellowfin sole, 10 mt of Western Aleutian District (WAI) Pacific ocean perch, 60 mt of Central Aleutian District (CAI) Pacific ocean perch, 100 mt of Eastern Aleutian District (EAI) Pacific ocean perch, 20 mt of WAI Atka mackerel, 100 mt of CAI Atka mackerel, and 800 mt of EAI and BS subarea Atka mackerel. These ICAs

are based on NMFS's examination of the incidentally retained and discarded catch in other target fisheries in recent years.

The regulations do not designate the remainder of the nonspecified reserve by species or species group. Any amount of the reserve may be apportioned during the year to a target species that contributed to the nonspecified reserve, provided that such apportionments are consistent with § 679.20(a)(3) and do not result in overfishing (§ 679.20(b)(1)(i)). The Regional Administrator has determined that amounts from the nonspecified reserve will be apportioned to two species groups that contributed to the nonspecified reserve. Because U.S. fishing vessels have demonstrated the capacity to catch the full TACs specified in tables 1 and 2, the total reserve amounts for each species group is included in the full TACs specified in tables 1 and 2. These apportionments of the reserve amounts for these species groups are consistent with NMFS regulations (§ 679.20(a)(3), (b)) and will not result in overfishing as the TACs with the reserve amounts included do not exceed ABCs (and ABCs do not exceed OFLs, see tables 1 and 2 above). Therefore, in accordance with § 679.20(b), NMFS is apportioning the reserve amounts shown in table 3 from the nonspecified reserve to BS and AI "other rockfish" and BS/EAI and CAI/WAI blackspotted/rougheye rockfish for 2026 and 2027.

Table 3 -- Final 2026 and 2027 Apportionment of Nonspecified Reserves (values are rounded to the nearest metric ton)

Species	Area or subarea	2026 ITAC	2026 reserve amount	2026 final TAC	2027 ITAC	2027 reserve amount	2027 final TAC
Blackspotted/Rougheye rockfish	BS/EAI	375	66	441	375	66	441
	CAI/WAI	276	49	325	276	49	325
Other rockfish	BS	543	96	639	543	96	639
	AI	353	62	415	353	62	415
Total		1,547	273	1,820	1,547	273	1,820

Note: Sector apportionments may not total precisely due to rounding. The 2026 apportionments are effective from 1200 hours, A.l.t., March 18, 2026, through 2400 hours, A.l.t., December 31, 2026. The 2027 apportionments are effective from 0001 hours, A.l.t., January 1, 2027, through 1200 hours, A.l.t., March 18, 2027.

Allocation of Pollock TAC Under the AFA

Section 679.20(a)(5)(i)(A) requires that the BS subarea pollock TAC be

apportioned as a DFA, after subtracting 10 percent for the CDQ program and 46,000 mt for the ICA in both 2026 and 2027, as follows: 50 percent to the

inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS subarea, 45 percent of the DFAs are

allocated to the A season (January 20 through June 10), and 55 percent of the DFAs are allocated to the B season (June 10 through November 1) (§§ 679.20(a)(5)(i)(B)(1) and 679.23(e)(2)). The AI subarea directed pollock fishery allocation to the Aleut Corporation is the amount of pollock TAC remaining in the AI subarea after subtracting 10 percent for the CDQ DFA and 4,500 mt for the ICA (§ 679.20(a)(5)(iii)(B)(2)). In the AI subarea, the total A season apportionment of the pollock TAC (including the AI directed fishery allocation, the CDQ DFA, and the ICA) may not exceed 40 percent of the ABC for AI pollock, and the remainder of the pollock TAC is allocated to the B season (§ 679.20(a)(5)(iii)(B)(3)). Tables 4 and 5 list these 2026 and 2027 amounts. Within any fishing year, any under harvest or over harvest of a seasonal allowance may be added to or subtracted from a subsequent seasonal allowance (§ 679.20(a)(5)(i)(B)(2) and (a)(5)(iii)(B)(3)(iii)).

Section 679.20(a)(5)(iii)(B)(6) sets harvest limits for pollock in the A season (January 20 through June 10) in

Areas 543, 542, and 541. In Area 543, the A season pollock harvest limit is no more than 5 percent of the AI pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the AI pollock ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the AI pollock ABC.

Section 679.20(a)(5)(i)(A)(4) includes requirements regarding BS subarea pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the C/P sector be available for harvest by AFA CVs with C/P sector endorsements delivering to listed C/Ps, unless the Regional Administrator receives a cooperative contract that allows for the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting no more than 0.5 percent of the pollock allocated to the C/P sector. Section 679.20(a)(5)(i)(A)(3) divides the BS subarea pollock inshore sector allocation between inshore cooperatives (the aggregate of annual allocations of all AFA inshore CV cooperatives) and inshore open access (the remainder not

allocated to inshore cooperatives). Tables 4 and 5 list the 2026 and 2027 allocations of pollock TAC. Table 6 lists the 2026 inshore sector allocation between AFA inshore cooperatives and AFA open access vessels. The 2027 inshore sector allocation between AFA inshore cooperatives and AFA open access vessels will not be known until eligible participants apply for participation in the program by December 1, 2026. Table 21 lists the allocation of the CDQ pollock DFA among the CDQ groups. Tables 23, 24, and 25 list the AFA C/P and CV sideboard limits.

Tables 4 and 5 also list seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest of pollock within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the annual pollock DFA before 12 p.m. A.l.t. (noon), April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit is apportioned to each sector in proportion to each sector's allocated percentage of the DFA.

BILLING CODE 3510-22-P

Table 4 -- Final 2026 Allocations of Pollock TACs to the Directed Pollock Fisheries and to the CDQ Directed Fishing Allowances (DFA)¹ (values are rounded to the nearest metric ton)

Area and Sector	2026 Allocations	A Season DFA	SCA harvest limit ²	B season DFA
Bering Sea subarea TAC	1,375,000	n/a	n/a	n/a
CDQ DFA	137,500	61,875	38,500	75,625
ICA ¹	46,000	n/a	n/a	n/a
Total Bering Sea DFA (non-CDQ)	1,191,500	536,175	333,620	655,325
AFA Inshore	595,750	268,088	166,810	327,663
AFA Catcher/Processors ³	476,600	214,470	133,448	262,130
Catch by C/Ps	436,089	196,240	n/a	239,849
Catch by CVs ³	40,511	18,230	n/a	22,281
Unlisted C/P Limit ⁴	2,383	1,072	n/a	1,311
AFA Motherships	119,150	53,618	33,362	65,533
Excessive Harvesting Limit ⁵	208,513	n/a	n/a	n/a
Excessive Processing Limit ⁶	357,450	n/a	n/a	n/a
Aleutian Islands subarea ABC	46,437	n/a	n/a	n/a
Aleutian Islands subarea TAC	19,000	n/a	n/a	n/a
CDQ DFA	1,900	1,900	n/a	n/a
ICA ¹	4,500	2,250	n/a	2,250
Aleut Corporation ⁷	12,600	12,600	n/a	n/a
Area harvest limit ⁸	n/a	n/a	n/a	n/a
541	13,931	n/a	n/a	n/a
542	6,966	n/a	n/a	n/a
543	2,322	n/a	n/a	n/a
Bogoslof District ICA ⁹	250	n/a	n/a	n/a

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

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

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

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

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

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

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

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

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

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

Table 5 -- Final 2027 Allocations of Pollock TACs to the Directed Pollock Fisheries and to the CDQ Directed Fishing Allowances (DFA)¹ (values are rounded to the nearest metric ton)

Area and Sector	2027 Allocations	A Season DFA	SCA harvest limit ²	B season DFA
Bering Sea subarea TAC	1,375,000	n/a	n/a	n/a
CDQ DFA	137,500	61,875	38,500	75,625
ICA ¹	46,000	n/a	n/a	n/a
Total Bering Sea DFA (non-CDQ)	1,191,500	536,175	333,620	655,325
AFA Inshore	595,750	268,088	166,810	327,663
AFA Catcher/Processors ³	476,600	214,470	133,448	262,130
Catch by C/Ps	436,089	196,240	n/a	239,849
Catch by CVs ³	40,511	18,230	n/a	22,281
Unlisted C/P Limit ⁴	2,383	1,072	n/a	1,311
AFA Motherships	119,150	53,618	33,362	65,533
Excessive Harvesting Limit ⁵	208,513	n/a	n/a	n/a
Excessive Processing Limit ⁶	357,450	n/a	n/a	n/a
Aleutian Islands subarea ABC	46,437	n/a	n/a	n/a
Aleutian Islands subarea TAC	19,000	n/a	n/a	n/a
CDQ DFA	1,900	1,900	n/a	n/a
ICA ¹	4,500	2,250	n/a	2,250
Aleut Corporation ⁷	12,600	12,600	n/a	n/a
Area harvest limit ⁸	n/a	n/a	n/a	n/a
541	13,931	n/a	n/a	n/a
542	6,966	n/a	n/a	n/a
543	2,322	n/a	n/a	n/a
Bogoslof District ICA ⁹	250	n/a	n/a	n/a

Note: Season or sector apportionments may not total precisely due to rounding. The 2027 harvest specifications for pollock are effective from 0001 hours, A.I.t., January 1, 2027, through 1200 hours, A.I.t., March 18, 2027.

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

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

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

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

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

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

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

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

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

Table 6 -- Final 2026 AFA Inshore Cooperative and Open Access Pollock Allocations (values are rounded to the nearest metric ton)

Cooperative Name ¹	% of Inshore sector allocation	Sum of vessel's catch histories (mt) ²	2026 Allocations (mt)
AFA Open Access	0.9%	8,107	5,516
Akutan Catcher Vessel Association	33.8%	295,836	201,291
Northern Victor Fleet Cooperative	9.4%	81,828	55,677
Peter Pan Fleet Cooperative	0.0%	0	0
Unalaska Fleet Cooperative (Alyeska)	12.3%	107,357	73,047
UniSea Fleet Cooperative	24.3%	212,761	144,765
Westward Fleet Cooperative	19.4%	169,683	115,454
Sum of all Cooperatives	100.0%	875,572	595,750

Note: Sector apportionments may not total precisely due to rounding.

¹ The 2026 allocations are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. Section 679.20(a)(5)(i)(A)(3) divides the BS subarea pollock inshore sector allocation between inshore cooperatives (the aggregate of annual allocations of all AFA inshore CV cooperatives) and inshore open access (the remainder not allocated to inshore cooperatives). The 2027 inshore sector allocation between AFA inshore cooperatives and AFA open access vessels will not be known until eligible participants apply for participation in the program by December 1, 2026. NMFS will specify the 2027 AFA inshore cooperative and open access pollock allocations in the 2027 and 2028 harvest specifications.

² According to regulations at § 679.62(a)(1), the individual catch history for each vessel is equal to the vessel's best 2 of 3 years of inshore pollock landings from 1995 through 1997 and includes non-CDQ offshore landings to C/Ps for vessels that made 500 or more mt of landings to C/Ps or offshore motherships from 1995 through 1997.

BILLING CODE 3510-22-C

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, ICAs for the BSAI trawl limited access sector and non-trawl gear sector, and the jig gear allocation (tables 7 and 8). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors

is listed in table 33 to 50 CFR part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the EAI District and the BS subarea Atka mackerel TAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council and is based on several criteria, including the amount of Atka mackerel harvested by vessels using jig gear during recent fishing years and the anticipated harvest capacity of the jig gear fleet. In December 2025, the

Council recommended a 2026 and 2027 EAI District and BS subarea Atka mackerel TAC allocated to vessels using jig gear of 0 percent. In recent years no vessels have used jig gear to harvest Atka mackerel, and the Council and NMFS received no public comment on anticipated harvest in future years. After reviewing the Council's recommendation and the regulatory criteria (§ 679.20(a)(8)(i)), NMFS approves a 0 percent allocation of the Atka mackerel TAC in the EAI District

and BS subarea to the jig gear sector in 2026 and 2027.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC, after subtraction of the jig gear allocation, into two equal seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through December 31 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to CDQ Atka mackerel trawl fishing. Within any fishing year, any under harvest or over harvest of a seasonal allowance may be added to or subtracted from a subsequent seasonal allowance (§ 679.20(a)(8)(ii)(B)). The ICAs and jig gear allocations are not apportioned by season.

Section 679.20(a)(8)(ii)(C)(1) limits Atka mackerel catch within waters 0 nautical miles (nmi) to 20 nmi (37.04 kilometers) of Steller sea lion sites listed in table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543. The Atka mackerel catch is also equally divided between the A and B seasons as defined at § 679.23(e)(3). Section 679.20(a)(8)(ii)(C)(2) requires that the annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543. Section 679.20(a)(8)(ii)(D) requires that any unharvested Atka mackerel A seasonal allowance that is added to the B season be prohibited from being harvested within waters 0 nmi to 20 nmi of Steller sea lion sites listed in table 6

to 50 CFR part 679 and located in Areas 541, 542, and 543.

Tables 7 and 8 list these 2026 and 2027 Atka mackerel seasonal and area allowances, and the sector allocations. One Amendment 80 cooperative has formed for the 2026 fishing year. Because all Amendment 80 vessels are part of the sole Amendment 80 cooperative, no allocation to the Amendment 80 limited access sector is required for 2026. The 2027 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026. Table 21 lists the allocation of CDQ Atka mackerel among the CDQ groups.

BILLING CODE 3510-22-P

Table 7 -- Final 2026 Seasonal and Area Allowances, CDQ Reserve, Incidental Catch Allowances, Gear Shares, and BSAI Trawl Limited Access Sector and Amendment 80 Sector Allocations of the BSAI Atka Mackerel TAC (values are rounded to the nearest metric ton)

Sector ¹	Season ^{2,3,4}	Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District ⁵
TAC	Total	41,731	23,716	17,494
CDQ reserve	Total	4,465	2,538	1,872
	A	2,233	1,269	936
	Critical Habitat	n/a	761	562
	B	2,233	1,269	936
	Critical Habitat	n/a	761	562
non-CDQ TAC	Total	37,266	21,178	15,622
ICA	Total	800	100	20
Jig ⁶	Total	0	n/a	n/a
BSAI trawl limited access	Total	3,647	2,108	n/a
	A	1,823	1,054	n/a
	Critical Habitat	n/a	632	n/a
	B	1,823	1,054	n/a
	Critical Habitat	n/a	632	n/a
Amendment 80	Total	32,819	18,970	15,602
	A	16,410	9,485	7,801
	Critical Habitat	n/a	5,691	4,681
	B	16,410	9,485	7,801
	Critical Habitat	n/a	5,691	4,681

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2026 harvest specifications for Atka mackerel are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026.

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, ICAs, and the jig gear allocation, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (§ 679.20(b)(1)(ii)(C)).

² Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

³ The seasonal allowances of Atka mackerel for the CDQ reserve, BSAI trawl limited access sector, and Amendment 80 sector are 50 percent in the A season and 50 percent in the B season.

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 through June 10, and the B season from June 10 through December 31.

⁵ Section 679.20(a)(8)(ii)(C)(1)(i) limits Atka mackerel catch within waters 0 nautical miles (nmi) to 20 nmi of Steller sea lion sites listed in table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543; § 679.20(a)(8)(ii)(C)(1)(ii) equally divides the Atka mackerel catch between the A and B seasons as defined at § 679.23(e)(3); and § 679.20(a)(8)(ii)(C)(2) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

⁶ Section 679.20(a)(8)(i) requires that up to 2 percent of the EAI District and BS subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The jig gear allocation is not apportioned by season. NMFS sets the amount of this allocation for 2026 at 0 percent.

Table 8 -- Final 2027 Seasonal and Area Allowances, CDQ Reserve, Incidental Catch Allowances, Gear Shares, and BSAI Trawl Limited Access Sector and Amendment 80 Sector Allocations of the BSAI Atka Mackerel TAC (values are rounded to the nearest metric ton)

Sector ¹	Season ^{2,3,4}	Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District ⁵
TAC	Total	41,731	23,716	17,494
CDQ reserve	Total	4,465	2,538	1,872
	A	2,233	1,269	936
	Critical Habitat	n/a	761	562
	B	2,233	1,269	936
	Critical Habitat	n/a	761	562
non-CDQ TAC	Total	37,266	21,178	15,622
ICA	Total	800	100	20
Jig ⁶	Total	0	n/a	n/a
BSAI trawl limited access	Total	3,647	2,108	n/a
	A	1,823	1,054	n/a
	Critical Habitat	n/a	632	n/a
	B	1,823	1,054	n/a
	Critical Habitat	n/a	632	n/a
Amendment 80 ⁷	Total	32,819	18,970	15,602
	A	16,410	9,485	7,801
	Critical Habitat	n/a	5,691	4,681
	B	16,410	9,485	7,801
	Critical Habitat	n/a	5,691	4,681

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2027 harvest specifications for Atka mackerel are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, ICAs, and the jig gear allocation, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (§ 679.20(b)(1)(ii)(C)).

² Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

³ The seasonal allowances of Atka mackerel for the CDQ reserve, BSAI trawl limited access sector, and Amendment 80 sector are 50 percent in the A season and 50 percent in the B season.

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 through June 10, and the B season from June 10 through December 31.

⁵ Section 679.20(a)(8)(ii)(C)(I)(i) limits Atka mackerel catch within waters 0 nautical miles (nmi) to 20 nmi of Steller sea lion sites listed in table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543; § 679.20(a)(8)(ii)(C)(I)(ii) equally divides the Atka mackerel catch between the A and B seasons as defined at § 679.23(e)(3); and § 679.20(a)(8)(ii)(C)(2) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

⁶ Section 679.20(a)(8)(i) requires that up to 2 percent of the EAI District and BS subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The jig gear allocation is not apportioned by season. NMFS sets the amount of this allocation for 2027 at 0 percent.

⁷ The 2027 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026.

BILLING CODE 3510-22-C

Allocation of the Pacific Cod TAC

Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the BS TAC and the AI TAC to the CDQ program. After CDQ allocations have been deducted from the respective BS and AI Pacific cod TACs, the remaining BSAI Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations and seasonal allowances. If the non-CDQ Pacific cod TAC is or will be reached in either the BS or the AI subareas, NMFS will prohibit non-CDQ directed fishing for Pacific cod in that subarea as provided in § 679.20(d)(1)(iii).

Section 679.20(a)(7)(ii) allocates to the non-CDQ sectors the Pacific cod TAC in the combined BSAI, after subtracting 10.7 percent for the CDQ program, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line or pot CVs less than 60 ft (18.3 m) LOA; 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line C/Ps; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot C/Ps; 2.3 percent to AFA trawl C/Ps; 13.4 percent to Amendment 80 sector; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2026 and 2027, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in directed fisheries for groundfish other than Pacific cod. During the fishing year, NMFS may reallocate unharvested Pacific cod among sectors, consistent with the reallocation hierarchy set forth at § 679.20(a)(7)(iii).

The BSAI ITAC allocation of Pacific cod to the Amendment 80 sector is established in table 33 to 50 CFR part 679 and § 679.91. One Amendment 80 cooperative has formed for the 2026 fishing year. Because all Amendment 80 vessels are part of the sole Amendment 80 cooperative, no allocation to the Amendment 80 limited access sector is required for 2026. The 2027 allocations

for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026.

The BSAI ITAC allocation of Pacific cod to the Pacific Cod Trawl Cooperative (PCTC) Program is established in § 679.131(b). Section 679.131(b)(1)(i) also requires NMFS to establish an ICA for incidental catch of Pacific cod in the A and B seasons by trawl CVs engaged in directed fishing for groundfish other than PCTC Program Pacific cod. For 2026 and 2027 NMFS sets an ICA amount of 1,500 mt in the A season and 600 mt in the B season. These ICA amounts are based on incidental catch in recent years. In the annual harvest specification process, NMFS determines the Pacific cod trawl CV TAC and the annual apportionment of Pacific cod in the A and B seasons between the PCTC Program DFA and the ICA (§ 679.131(b)(2)) (tables 9 and 10 below). The 2026 PCTC cooperative allocations and PSC limits are listed in table 11. The 2027 cooperative allocations and PSC limits for PCTC Program cooperatives will not be known until eligible participants apply for participation in the program by November 1, 2026.

The sector allocations of Pacific cod are apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (§§ 679.20(a)(7)(i)(B) (CDQ), 679.20(a)(7)(iv)(A) (non-CDQ), and 679.23(e)(5) (seasons)). Tables 9 and 10 list the CDQ and non-CDQ sector allocations and the non-CDQ seasonal allowances. In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a non-CDQ Pacific cod seasonal allowance for any sector, except the jig sector, will become available at the beginning of that sector's next seasonal allowance. Section 679.20(a)(7)(i)(B) sets forth the CDQ Pacific cod gear allowances by season, and CDQ groups are prohibited from exceeding those seasonal allowances (§ 679.7(d)(6)).

Section 679.20(a)(7)(vii) requires that the Regional Administrator establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543 as determined by the annual stock assessment process. Based on the 2024 stock assessment, the Regional Administrator determined for 2026 and 2027 the estimated amount of Pacific cod abundance in Area 543 is 32 percent of the total AI abundance. To calculate the Area 543 Pacific cod harvest limit, NMFS first subtracts the State GHL Pacific cod amount from the AI Pacific cod ABC. Then NMFS determines the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 (32 percent) by the remaining ABC for AI Pacific cod. Based on these calculations, the Area 543 harvest limit is 2,864 mt for 2026, and 2,864 mt for 2027.

Under the PCTC Program, NMFS is required to specify an AI set-aside of up to 12 percent of the PCTC Program A season cooperative quota for delivery to an AI shoreplant in years in which an AI community representative notifies NMFS of the intent to process PCTC Program Pacific cod in the City of Adak or City of Atka (§ 679.132). A notice of intent to process PCTC Program Pacific cod must be submitted in writing to the Regional Administrator by a representative of the City of Adak or the City of Atka no later than October 15. A notice of intent was not received by October 15, 2025, and accordingly the AI set-aside will not be in effect for 2026. The 2027 set-aside will be determined after the October 15, 2026, deadline in conjunction with the 2027 and 2028 harvest specifications process.

Based on the final 2026 and 2027 Pacific cod TACs, tables 9 and 10 list the CDQ and non-CDQ TAC amounts; non-CDQ seasonal allowances by gear; the sector allocations of Pacific cod; and the seasons set forth at § 679.23(e)(5). The CDQ allocation of BS and AI Pacific cod among the CDQ groups is listed in table 21.

BILLING CODE 3510-22-P

Table 9 -- Final 2026 Sector Allocations and Seasonal Allowances of the BSAI Pacific Cod TAC (values are rounded to the nearest metric ton)

Sector	Percent	2026 share of area, gear, and sector total	Season	Seasonal Amounts
Total Bering Sea TAC	n/a	123,077	n/a	n/a
Bering Sea CDQ	n/a	13,169	See § 679.20(a)(7)(i)(B)	n/a
Bering Sea non-CDQ TAC	n/a	109,908	n/a	n/a
Total Aleutian Islands TAC	n/a	8,951	n/a	n/a
Aleutian Islands CDQ	n/a	958	See § 679.20(a)(7)(i)(B)	n/a
Aleutian Islands non-CDQ TAC	n/a	7,993	n/a	n/a
Western Aleutian Islands (Area 543) Limit	n/a	2,864	n/a	n/a
Total BSAI non-CDQ TAC ¹	100	117,901	n/a	n/a
Total hook-and-line/pot gear	60.8	71,684	n/a	n/a
Hook-and-line/pot ICA ²	n/a	500	n/a	n/a
Hook-and-line/pot sub-total	n/a	71,184	n/a	n/a
Hook-and-line catcher/processors	48.7	57,017	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	29,079
B-season	n/a	n/a	June 10-Dec 31	27,938
Hook-and-line catcher vessels ≥60 ft LOA	0.2	234	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	119
B-season	n/a	n/a	June 10-Dec 31	115
Pot catcher/processors	1.5	1,756	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	896
B-season	n/a	n/a	Sept 1- Dec 31	861
Pot catcher vessels ≥60 ft LOA	8.4	9,835	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	5,016
B-season	n/a	n/a	Sept 1- Dec 31	4,819
Catcher vessels <60 ft LOA using hook-and-line or pot	2	2,342	n/a	n/a
Trawl catcher vessels ³	22.1	26,056	n/a	n/a
A-season ICA	n/a	n/a	Jan 20-Apr 1	1,500
A-season PCTC	n/a	n/a	Jan 20-Apr 1	17,782
B-season ICA	n/a	n/a	Apr 1-Jun 10	600

B-season PCTC	n/a	n/a	Apr 1-Jun 10	2,266
C-season trawl catcher vessels	n/a	n/a	Jun 10-Nov 1	3,908
AFA trawl catcher/processors	2.3	2,712	n/a	n/a
A-season	n/a	n/a	Jan 20-Apr 1	2,034
B-season	n/a	n/a	Apr 1-Jun 10	678
C-season	n/a	n/a	Jun 10-Nov 1	0
Amendment 80	13.4	15,799	n/a	n/a
A-season	n/a	n/a	Jan 20-Apr 1	11,849
B-season	n/a	n/a	Apr 1-Jun 10	3,950
C-season	n/a	n/a	Jun 10-Dec 31	0
Jig	1.4	1,651	n/a	n/a
A-season	n/a	n/a	Jan 1-Apr 30	990
B-season	n/a	n/a	Apr 30-Aug 31	330
C-season	n/a	n/a	Aug 31-Dec 31	330

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

¹ The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after subtraction of the reserves for the CDQ Program. If the non-CDQ TAC for Pacific cod in either the BS or AI is or will be reached, then directed fishing will be prohibited for non-CDQ Pacific cod in that subarea, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

² Section 679.20(a)(7)(ii)(B) requires NMFS to specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod by the hook-and-line and pot gear sectors. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. NMFS sets the amount of the ICA for 2026 at 500 mt based on anticipated incidental catch by these sectors in other fisheries.

³ The A and B season trawl CV Pacific cod allocation will be allocated to the PCTC Program after subtraction of the A and B season ICAs (§ 679.131(b)(1)). Section 679.131(b)(1)(i) requires NMFS to establish an ICA for incidental catch of Pacific cod in the A and B seasons by trawl CVs engaged in directed fishing for groundfish other than PCTC Program Pacific cod. NMFS sets the amount of the ICAs for the 2026 A and B seasons at 1,500 mt and 600 mt, respectively, to account for projected incidental catch of Pacific cod by trawl CVs engaged in directed fishing for groundfish other than PCTC Program Pacific cod.

Table 10 -- Final 2027 Sector Allocations and Seasonal Allowances of the BSAI Pacific Cod TAC (values are rounded to the nearest metric ton)

Sector	Percent	2027 share of area, gear, and sector total	Season	Seasonal Amounts
Total Bering Sea TAC	n/a	123,077	n/a	n/a
Bering Sea CDQ	n/a	13,169	See § 679.20(a)(7)(i)(B)	n/a
Bering Sea non-CDQ TAC	n/a	109,908	n/a	n/a
Total Aleutian Islands TAC	n/a	8,951	n/a	n/a
Aleutian Islands CDQ	n/a	958	See § 679.20(a)(7)(i)(B)	n/a
Aleutian Islands non-CDQ TAC	n/a	7,993	n/a	n/a
Western Aleutian Islands (Area 543) Limit	n/a	2,864	n/a	n/a
Total BSAI non-CDQ TAC ¹	100	117,901	n/a	n/a
Total hook-and-line/pot gear	60.8	71,684	n/a	n/a
Hook-and-line/pot ICA ²	n/a	500	n/a	n/a
Hook-and-line/pot sub-total	n/a	71,184	n/a	n/a
Hook-and-line catcher/processors	48.7	57,017	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	29,079
B-season	n/a	n/a	June 10-Dec 31	27,938
Hook-and-line catcher vessels ≥60 ft LOA	0.2	234	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	119
B-season	n/a	n/a	June 10-Dec 31	115
Pot catcher/processors	1.5	1,756	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	896
B-season	n/a	n/a	Sept 1- Dec 31	861
Pot catcher vessels ≥60 ft LOA	8.4	9,835	n/a	n/a
A-season	n/a	n/a	Jan 1-Jun 10	5,016
B-season	n/a	n/a	Sept 1- Dec 31	4,819
Catcher vessels <60ft LOA using hook-and-line or pot	2	2,342	n/a	n/a
Trawl catcher vessels ³	22.1	26,056	n/a	n/a
A-season ICA	n/a	n/a	Jan 20-Apr 1	1,500
A-season PCTC	n/a	n/a	Jan 20-Apr 1	17,782
B-season ICA	n/a	n/a	Apr 1-Jun 10	600

B-season PCTC	n/a	n/a	Apr 1-Jun 10	2,266
C-season trawl catcher vessels	n/a	n/a	Jun 10-Nov 1	3,908
AFA trawl catcher/processors	2.3	2,712	n/a	n/a
A-season	n/a	n/a	Jan 20-Apr 1	2,034
B-season	n/a	n/a	Apr 1-Jun 10	678
C-season	n/a	n/a	Jun 10-Nov 1	0
Amendment 80	13.4	15,799	n/a	n/a
A-season	n/a	n/a	Jan 20-Apr 1	11,849
B-season	n/a	n/a	Apr 1-Jun 10	3,950
C-season	n/a	n/a	Jun 10-Dec 31	0
Jig	1.4	1,651	n/a	n/a
A-season	n/a	n/a	Jan 1-Apr 30	990
B-season	n/a	n/a	Apr 30-Aug 31	330
C-season	n/a	n/a	Aug 31-Dec 31	330

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2027 harvest specifications for Pacific cod are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after subtraction of the reserves for the CDQ Program. If the non-CDQ TAC for Pacific cod in either the BS or AI is or will be reached, then directed fishing will be prohibited for non-CDQ Pacific cod in that subarea, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

² Section 679.20(a)(7)(ii)(B) requires NMFS to specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod by the hook-and-line and pot gear sectors. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. NMFS sets the amount of the ICA for 2027 at 500 mt based on anticipated incidental catch by these sectors in other fisheries.

³ The A and B season trawl CV Pacific cod allocation will be allocated to the PCTC Program after subtraction of the A and B season ICAs (§ 679.131(b)(1)). Section 679.131(b)(1)(i) requires NMFS to establish an ICA for incidental catch of Pacific cod in the A and B seasons by trawl CVs engaged in directed fishing for groundfish other than PCTC Program Pacific cod. NMFS sets the amount of the ICAs for the 2027 A and B seasons at 1,500 mt and 600 mt, respectively, to account for projected incidental catch of Pacific cod by trawl CVs engaged in directed fishing for groundfish other than PCTC Program Pacific cod.

Table 11 -- Final 2026 PCTC Cooperative Allocations and PSC Limits (Pacific cod and Pacific halibut amounts are rounded to the nearest metric ton. Crab are in number of animals.)

Cooperative Name ¹	Total Pacific Cod CQ	A Season Pacific Cod CQ	B Season Pacific Cod CQ	Halibut	Red King Crab	<i>C. opilio</i> COBLZ	Zone 1 <i>C. bairdi</i>	Zone 2 <i>C. bairdi</i>
AKUTAN COD ASSOCIATION	11,868	10,527	1,341	130	978	49,193	19,871	16,559
GA CATCHER VESSELS ASSOCIATION	1,372	1,217	155	15	113	5,687	2,297	1,914
UNIFIED COD COOPERATIVE	4,063	3,604	459	45	335	16,842	6,803	5,669
KATIE ANN, LLC	736	653	83	8	60	3,050	1,232	1,027
USS COD COOPERATIVE	2,008	1,781	227	22	165	8,322	3,361	2,801
Totals:	20,048	17,782	2,266	220	1,651	83,094	33,564	27,970

Note: Totals may not add up due to rounding. Refer to § 679.2 for definitions of areas and zones.

¹ The 2026 PCTC cooperative allocations and PSC limits are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 cooperative allocations and PSC limits for PCTC Program cooperatives will not be known until eligible participants apply for participation in the program by November 1, 2026. NMFS will specify the 2027 PCTC cooperative allocations and PSC limits in the 2027 and 2028 harvest specifications.

BILLING CODE 3510-22-C

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require allocation of the sablefish TAC for the BS and AI subareas between the trawl gear and fixed gear sectors. Gear allocations of the sablefish TAC for the BS subarea are 50 percent for trawl gear and 50 percent for fixed gear. Gear allocations of the sablefish TAC for the AI subarea are 25 percent for trawl gear and 75 percent for fixed gear. Section 679.20(b)(1)(ii)(B) requires that NMFS apportion 20 percent of the fixed gear allocation of sablefish TAC to the CDQ

reserve for each subarea. Also, § 679.20(b)(1)(ii)(D)(1) requires that in the BS and AI subareas 7.5 percent of the trawl gear allocation of sablefish TAC from the nonspecified reserve, established under § 679.20(b)(1)(i), be assigned to the CDQ reserve for each subarea.

The Council recommended, and NMFS agrees, that only trawl sablefish TAC be established biennially and that fixed gear sablefish TAC be established for 1 year. The harvest specifications for the fixed gear sablefish Individual Fishing Quota (IFQ) fisheries are limited to the 2026 fishing year to ensure those

fisheries are conducted concurrently with the halibut IFQ fishery, which opens March 26, 2026. Concurrent sablefish and halibut IFQ fisheries reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 12 lists the 2026 and 2027 gear allocations of the sablefish TAC and CDQ reserve amounts. Allocations among CDQ groups are listed in table 21.

BILLING CODE 3510-22-P

Table 12 -- Final 2026 and 2027 Gear Shares and CDQ Reserve of BSAI Sablefish TACs (values are rounded to the nearest metric ton)

Subarea and gear	Percent of TAC	2026 Share of TAC	2026 ITAC	2026 CDQ reserve	2027 Share of TAC	2027 ITAC	2027 CDQ reserve
Bering Sea	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Trawl gear ¹	50	4,498	3,823	337	4,498	3,823	337
Fixed gear ²	50	4,498	3,598	900	n/a	n/a	n/a
Total	100	8,996	7,422	1,237	4,498	3,823	337
Aleutian Islands	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Trawl gear ¹	25	1,860	1,581	140	1,860	1,581	140
Fixed gear ²	75	5,580	4,464	1,116	n/a	n/a	n/a
Total	100	7,440	6,045	1,256	1,860	1,581	140

Note: Seasonal or sector apportionments may not total precisely due to rounding.

¹ For the sablefish TAC allocated to vessels using trawl gear, 15 percent of TAC is apportioned to the nonspecified reserve (§ 679.20(b)(1)(i)). The ITAC for vessels using trawl gear is the remainder of the TAC after subtracting this reserve. In the BS and AI, 7.5 percent of the trawl gear allocation of the TAC is assigned from the nonspecified reserve to the CDQ reserve for each subarea (§ 679.20(b)(1)(ii)(D)(I)). The 2026 sablefish allocations to trawl gear are effective from 1200 hours, A.I.t., March 18, 2026, through 2400 hours, A.I.t., December 31, 2026. The 2027 sablefish allocations to trawl gear are effective from 0001 hours, A.I.t., January 1, 2027, through 1200 hours, A.I.t., March 18, 2027.

² For the sablefish TAC allocated to vessels using fixed gear, 20 percent of the allocated TAC for the BS and AI is reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(B)). The ITAC for vessels using fixed gear is the remainder of the TAC after subtracting the CDQ reserve for each subarea. The Council recommended, and NMFS agrees, that specifications for the fixed gear sablefish IFQ fisheries be limited to one year. The 2026 sablefish allocations to fixed gear are effective from 1200 hours, A.I.t., March 18, 2026, through 2400 hours, A.I.t., December 31, 2026. The 2027 sablefish allocations to fixed gear will be specified in the 2027 and 2028 harvest specifications.

BILLING CODE 3510-22-C

Allocation of the AI Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require that NMFS allocate AI Pacific ocean perch and BSAI flathead sole, rock sole, and yellowfin sole ITACs between the Amendment 80 sector and the BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserves and ICAs for the BSAI trawl limited access sector and vessels

using non-trawl gear. The allocations of the ITACs for AI Pacific ocean perch and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector and the BSAI trawl limited access sector are established in accordance with tables 33 and 34 to 50 CFR part 679 and with § 679.91.

One Amendment 80 cooperative has formed for the 2026 fishing year. Because all Amendment 80 vessels are part of the sole Amendment 80 cooperative, no allocation to the Amendment 80 limited access sector is

required for 2026. The 2027 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026. Tables 13 and 14 list the 2026 and 2027 allocations of the AI Pacific ocean perch and BSAI flathead sole, rock sole, and yellowfin sole TACs. Allocations among the CDQ groups are listed in table 21.

BILLING CODE 3510-22-P

Table 13 -- Final 2026 CDQ Reserves, ICAs, and Amendment 80 Sector and BSAI Trawl Limited Access Sector Allocations of the Aleutian Islands Pacific Ocean Perch and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs (values are rounded to the nearest metric ton)

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	EAI	CAI	WAI	BSAI	BSAI	BSAI
TAC	6,144	5,441	12,000	36,000	75,000	145,000
CDQ	657	582	1,284	3,852	8,025	15,515
ICA	100	60	10	2,000	3,000	2,000
BSAI trawl limited access	539	480	214	n/a	n/a	15,936
Amendment 80	4,848	4,319	10,492	30,148	63,975	111,549

Note: Sector apportionments may not total precisely due to rounding. The 2026 CDQ reserves, ICAs, and allocations for BSAI flathead sole, rock sole, and yellowfin sole are effective from 1200 hours, A.l.t., March 18, 2026, through 2400 hours, A.l.t., December 31, 2026.

Table 14 -- Final 2027 CDQ Reserves, ICAs, and Amendment 80 Sector and BSAI Trawl Limited Access Sector Allocations of the Aleutian Islands Pacific Ocean Perch and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs (values are rounded to the nearest metric ton)

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	EAI	CAI	WAI	BSAI	BSAI	BSAI
TAC	6,144	5,441	12,000	36,000	75,000	145,000
CDQ	657	582	1,284	3,852	8,025	15,515
ICA	100	60	10	2,000	3,000	2,000
BSAI trawl limited access	539	480	214	n/a	n/a	15,936
Amendment 80 ¹	4,848	4,319	10,492	30,148	63,975	111,549

Note: Sector apportionments may not total precisely due to rounding. The 2027 CDQ reserves, ICAs, and allocations for BSAI flathead sole, rock sole, and yellowfin sole are effective from 0001 hours, A.l.t., January 1, 2027, through 1200 hours, A.l.t., March 18, 2027.

¹ The 2027 allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026.

Section 679.2 defines the ABC surplus for flathead sole, rock sole, and yellowfin sole as the difference between the annual ABC and TAC for each species. Section 679.20(b)(1)(iii) establishes ABC reserves for flathead sole, rock sole, and yellowfin sole. The ABC surpluses and the ABC reserves are necessary to mitigate the operational variability, environmental conditions, and economic factors that may constrain the CDQ groups and the Amendment 80 cooperatives from fully harvesting their allocations and to improve the

likelihood of achieving and maintaining, on a continuing basis, the OY in the BSAI groundfish fisheries. NMFS, after consultation with the Council, may set the ABC reserve at or below the ABC surplus for each species, thus maintaining the TAC at or below ABC limits. An amount equal to 10.7 percent of the ABC reserves will be allocated as CDQ ABC reserves for flathead sole, rock sole, and yellowfin sole. Section 679.31(b)(4) establishes the annual allocations of CDQ ABC reserves among the CDQ groups. The

Amendment 80 ABC reserves are the ABC reserves minus the CDQ ABC reserves. Section 679.91(i)(2) establishes the Amendment 80 cooperatives' ABC reserve to be the ratio of each cooperatives' quota share units and the total Amendment 80 quota share units, multiplied by the Amendment 80 ABC reserve for each respective species. Table 15 lists the 2026 and 2027 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole. The ABC reserves for the CDQ groups are listed in table 21.

Table 15 -- Final 2026 and 2027 ABC Surplus, ABC Reserves, CDQ ABC Reserves, and Amendment 80 ABC Reserves in the BSAI for Flathead Sole, Rock Sole, and Yellowfin Sole (values are rounded to the nearest metric ton)

Sector	2026 Flathead sole	2026 Rock sole	2026 Yellowfin sole	2027 Flathead sole ¹	2027 Rock sole ¹	2027 Yellowfin sole ¹
ABC	87,700	158,225	267,639	87,700	158,225	267,639
TAC	36,000	75,000	145,000	36,000	75,000	145,000
ABC surplus	51,700	83,225	122,639	51,700	83,225	122,639
ABC reserve	51,700	83,225	122,639	51,700	83,225	122,639
CDQ ABC reserve	5,532	8,905	13,122	5,532	8,905	13,122
Amendment 80 ABC reserve	46,168	74,320	109,517	46,168	74,320	109,517

Note: Sector apportionments may not total precisely due to rounding.

¹ The 2026 ABC surpluses and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole are effective from 1200 hours, A.I.t., March 18, 2026, through 2400 hours, A.I.t., December 31, 2026. The 2027 ABC surpluses and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole are effective from 0001 hours, A.I.t., January 1, 2027, through 1200 hours, A.I.t., March 18, 2027. The 2027 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026.

BILLING CODE 3510-22-C

PSC Limits for Halibut, Crab, and Herring

Sections 679.21(b) and (e) set forth the BSAI PSC limits for halibut, crab, and herring. Section 679.21(b)(1) establishes three fixed halibut PSC limits totaling 1,770 mt, and assigns 315 mt of the halibut PSC limit as the PSQ reserve for use by the groundfish CDQ Program, 745 mt of the halibut PSC limit for the BSAI trawl limited access sector, and 710 mt of the halibut PSC limit for the BSAI non-trawl sector. An additional amount of BSAI halibut PSC limit for the Amendment 80 sector is determined annually based on the most recent halibut biomass estimates from the International Pacific Halibut Commission (IPHC) setline survey index and the NMFS AFSC Eastern Bering Sea shelf trawl survey index. In accordance with § 679.21(b)(1)(i), NMFS uses both halibut biomass estimates such that the value at the intercept of those survey indices from table 58 to 50 CFR part 679 is the Amendment 80 sector halibut PSC limit. The 2025 AFSC Eastern Bering Sea shelf trawl survey index estimate of halibut abundance is 133,705 mt, which is below the threshold level of 150,000 mt and is in the “low” abundance state. The 2025 IPHC setline survey index is 6,664 mt and is in the “low” abundance state. Pursuant to table 58 to 50 CFR part 679, the 2026 Amendment 80 sector halibut PSC limit is 1,309 mt. NMFS will publish the 2027 Amendment 80

sector halibut PSC limit in the 2027 and 2028 harvest specifications.

Sections 679.21(b)(1)(iii)(A) and (B) require apportionment of the BSAI non-trawl halibut PSC limit into PSC allowances among six fishery categories (see table 19). Sections 679.21(b)(1)(ii)(A) and (B), (e)(3)(i)(B), and (e)(3)(iv) require apportionment of the trawl PSC limits into PSC allowances among seven fishery categories (see tables 16, 17, and 18). These apportionments into PSC allowances are based on the fishery categories’ share of anticipated halibut PSC during the fishing year and the need to optimize the amount of total groundfish harvested under the halibut PSC limit for the non-trawl and trawl sectors.

Pursuant to Section 3.6 of the FMP, the Council recommends that certain specified non-trawl fisheries be exempt from the halibut PSC limit. NMFS concurs with this recommendation and exempts the pot gear fishery, the jig gear fishery, and the sablefish IFQ fixed gear fishery categories from halibut bycatch restrictions for the following reasons: (1) the pot gear fishery has low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program requires that legal-size halibut be retained by vessels using fixed gear if a

halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (see § 679.7(f)(11)).

The 2025 total groundfish catch for the pot gear fishery in the BSAI was 37,446 mt, with an associated halibut bycatch mortality of 8 mt. The 2025 jig gear fishery harvested 0 mt of total groundfish.

Pursuant to § 679.21(e), PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Based on the most recent (2025) survey data, the red king crab mature female abundance is estimated at 12.7 million red king crabs, and the effective spawning biomass is estimated at 25.9 million pounds (lbs) (11,750 mt). Based on the criteria set out at § 679.21(e)(1)(i), the calculated 2026 and 2027 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance estimate above 8.4 million mature red king crab and an effective spawning biomass between 14.5 and 55 million lbs.

Section 679.21(e)(3)(ii)(B)(2) establishes criteria under which NMFS must specify, after consultation with the Council, an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS) if the State has established a fishery for red king crab in the Bristol Bay area in the previous year. The regulations limit the RKCSS red king crab bycatch limit to 25

percent of the red king crab PSC limit, and the limit must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The State established a Bristol Bay red king crab fishery in October 2025, and in December 2025, the Council recommended, and NMFS approves, that the RKCSS red king crab bycatch limit for 2026 and 2027 be equal to 25 percent of the red king crab PSC limit (table 17).

Based on the most recent (2025) survey data from the NMFS annual bottom trawl survey, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 1,151.3 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2026 and 2027 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1, and 2,970,000 animals in Zone 2. The limit in Zone 1 is based on the total abundance of *C. bairdi* (estimated at 1,151.3 million animals) that is greater than 400 million animals. The limit in Zone 2 is based on the total abundance of *C. bairdi* (estimated at 1,153.1 million animals) that is greater than 400 million animals.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for trawl gear for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit in the *C. opilio* crab bycatch limitation zone (COBLZ) is set at 0.1133 percent of the total abundance minus 150,000 crabs, unless a minimum or maximum PSC limit applies. Based on the most recent (2025) survey estimate from the NMFS annual bottom trawl survey of 12.64 billion animals, multiplied by 0.1133 percent, the calculated limit is 14,321,120 animals. Because the calculated limit is greater than 13 million animals, the maximum PSC limit applies and the PSC limit will be 12,850,000 million animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern BS herring biomass. The regulation does not specify how to determine the eastern BS herring biomass for calculating the PSC limit. The Council and NMFS have relied on the State's annual estimate. This year, the AP did not consider the 2025 forecasted biomass estimate because the State submitted their 2025 forecasted biomass estimate after the AP had met and had considered recommendations

for apportionments among trawl fishery categories. The Council considered the available forecasted biomass estimates (2024 and 2025) and the AP's recommendation for apportionments among trawl fishery categories that was based on the 2024 estimate. The Council ultimately recommended a herring PSC limit based on the 2024 forecasted biomass estimate of 265,096 mt and apportionments among the trawl fishery categories consistent with the AP's recommendations. For 2026 and 2027, NMFS implements a PSC limit for Pacific herring based on the 2024 forecasted biomass estimate, which was developed by the State in 2024 based on biomass for spawning aggregations, and based on the Council's recommendations for apportionments among trawl fishery categories, which were developed with the benefit of the AP's recommendations for apportionments. The herring PSC limit for 2026 and 2027 is 2,651 mt for all trawl gear as listed in tables 16 and 17.

Section 679.21(e)(3)(i)(A)(1) allocates 10.7 percent from each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(3)(i)(A) requires that crab PSQ reserves be subtracted from the total trawl gear crab PSC limits. The crab and halibut PSC limits apportioned to the Amendment 80 and BSAI trawl limited access sectors are listed in table 35 to 50 CFR part 679. The resulting 2026 and 2027 apportionments of PSC limit to CDQ PSQ reserves, the Amendment 80 sector, and the BSAI trawl limited access sector are listed in table 16. Pursuant to §§ 679.21(b)(1)(i), 679.21(e)(3)(vi), and 679.91(d) through (f), crab and halibut trawl PSC limits apportioned to the Amendment 80 sector are then further assigned to Amendment 80 cooperatives as cooperative quota. Crab and halibut PSC cooperative quota assigned to Amendment 80 cooperatives is not apportioned to specific fishery categories. In 2026, there are no vessels in the Amendment 80 limited access sector and there is a single Amendment 80 cooperative. The 2027 PSC limits between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2026.

The BSAI allocation of halibut and crab PSC limits to the PCTC Program is established in § 679.131(c) and (d). The halibut PSC apportioned to the trawl CV

sector is 98 percent of the halibut PSC limit apportioned to the BSAI trawl limited access sector's Pacific cod fishery category, and the remaining 2 percent is apportioned to the AFA C/P sector. The trawl CV sector apportionment is further assigned to the A and B seasons (95 percent) and the C season (5 percent), and the A and B season limit is reduced by 25 percent to determine the overall PCTC Program halibut PSC limit. The crab PSC apportioned to the trawl CV sector is 90.6 percent of the crab PSC limit apportioned to the BSAI trawl limited access sector's Pacific cod fishery category, and the remaining 9.4 percent is apportioned to the AFA C/P sector. The trawl CV sector apportionment is further assigned to the A and B seasons (95 percent) and the C season (5 percent), and the A and B season limit is reduced by 35 percent to determine the overall PCTC Program crab PSC limit. The limits of halibut and crab PSC for the PCTC Program are listed in table 18, and in table 11 for PSC limits for PCTC Program cooperatives.

Sections 679.21(b)(2) and (e)(5) authorize NMFS, after consulting with the Council, to establish seasonal apportionments of halibut and crab PSC limits for the BSAI trawl limited access and non-trawl sectors to maximize the ability of the fleets to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are: (1) seasonal distribution of prohibited species; (2) seasonal distribution of target groundfish species relative to prohibited species distribution; (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass and expected catches of target groundfish species; (4) the expected variations in bycatch rates throughout the year; (5) the expected changes in directed groundfish fishing seasons; (6) the expected start of fishing effort; and (7) economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry. Based on these criteria, the Council recommended and NMFS approves the seasonal PSC apportionments in tables 18 and 19 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC. PSC limits for PCTC Program cooperatives are listed in table 11. PSC limits among the CDQ groups are listed in table 21.

BILLING CODE 3510-22-P

Table 16 -- Final 2026 and 2027 Apportionment of Prohibited Species Catch Limits to Non-Trawl Gear, the CDQ Program, Amendment 80, and the BSAI Trawl Limited Access Sectors (values are rounded to the nearest metric ton. Crab are in number of animals.)

PSC species and area and zone ¹	Total PSC	Non-trawl PSC	CDQ PSQ reserve ²	Trawl PSC remaining after CDQ PSQ	Amendment 80 sector ³	BSAI trawl limited access sector	BSAI PSC limits not allocated to Amendment 80
Halibut mortality (mt) BSAI	3,079	710	315	n/a	1,309	745	n/a
Herring (mt) BSAI	2,651	n/a	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	97,000	n/a	10,379	86,621	43,293	26,489	16,839
<i>C. opilio</i> (animals) COBLZ	12,850,000	n/a	1,374,950	11,475,050	5,639,987	3,688,081	2,146,982
<i>C. bairdi</i> crab (animals) Zone 1	980,000	n/a	104,860	875,140	368,521	411,228	95,390
<i>C. bairdi</i> crab (animals) Zone 2	2,970,000	n/a	317,790	2,652,210	627,778	1,241,500	782,932

Note: Species apportionments may not total precisely due to rounding.

¹ Refer to § 679.2 for definitions of areas and zones. The 2026 prohibited species catch limits are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 prohibited species catch limits are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

² The PSQ reserves for the CDQ Program for crab species are 10.7 percent of each crab PSC limit.

³ The halibut PSC limit for the Amendment 80 sector is determined annually based on the most recent halibut biomass estimates from the IPHC setline survey index and the NMFS AFSC Eastern Bering Sea shelf trawl survey index (§ 679.21(b)(1)(i)(A) through (C)). NMFS uses both halibut biomass estimates such that the value at the intercept of those survey indices from table 58 to 50 CFR part 679 is the Amendment 80 sector halibut PSC limit.

Table 17 -- Final 2026 and 2027 Herring and Red King Crab Savings Subarea Prohibited Species Catch Allowances for all Trawl Sectors (Herring amounts are rounded to nearest metric ton. Crab are in number of animals.)

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	153	n/a
Rock sole/flathead sole/Alaska plaice/other flatfish ¹	77	n/a
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	8	n/a
Rockfish	8	n/a
Pacific cod	14	n/a
Midwater trawl pollock	2,359	n/a
Pollock/Atka mackerel/other species ^{2,3}	31	n/a
2026 Red king crab savings subarea nonpelagic trawl gear ⁴	n/a	24,250
Total trawl PSC	2,651	97,000

Note: Species apportionments may not total precisely due to rounding. The 2026 prohibited species catch allowances are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 prohibited species catch allowances are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

² Pollock other than midwater trawl pollock, Atka mackerel, and “other species” fishery category.

³ “Other species” for PSC monitoring includes skates, sharks, and octopuses.

⁴ In December 2025, the Council recommended and NMFS approves that the red king crab bycatch limit for non-pelagic trawl fisheries within the Red King Crab Savings Subarea (RKCSS) be limited to 25 percent of the red king crab PSC limit (§ 679.21(e)(3)(ii)(B)(2)).

Table 18 -- Final 2026 and 2027 Prohibited Species Catch Allowances for the BSAI Trawl Limited Access Sectors and Pacific Cod Trawl Cooperative Program (values are rounded to the nearest metric ton. Crab are in number of animals.)

BSAI trawl limited access sector fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	250	23,337	3,521,725	346,228	1,185,500
Rock sole/flathead sole/Alaska plaice/other flatfish ²	n/a	n/a	n/a	n/a	n/a
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	n/a	n/a	n/a	n/a	n/a
Rockfish April 15-December 31	5	n/a	2,972	n/a	1,000
Total Pacific cod ³	315	2,955	148,531	60,000	50,000
AFA C/P Pacific cod	6	278	13,962	5,640	4,700
PCTC Program Pacific cod, A and B	220	1,653	83,097	33,567	27,973
Trawl CV Pacific cod, C season	15	134	6,728	2,718	2,265
PCTC Program unallocated reduction	73	890	44,744	18,075	15,062
Pollock/Atka mackerel/other species ⁴	175	197	14,853	5,000	5,000
Total BSAI trawl limited access sector PSC	745	26,489	3,688,081	411,228	1,241,500

Note: Species apportionments may not total precisely due to rounding. The 2026 prohibited species catch allowances are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 prohibited species catch allowances are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ Refer to § 679.2 for definitions of areas and zones.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

³ The BSAI trawl limited access sector’s Pacific cod fishery category PSC limits for halibut and crab are split between AFA C/Ps, PCTC Program A and B season trawl CVs, and open access C season (§ 679.131(c) and (d)). The halibut PSC limits are reduced for the A and B season trawl CV sector by 25 percent each year (§ 679.131(c)(1)(iii)). The crab PSC limits are reduced for the A and B season trawl CV sector by 35 percent each year (§ 679.131(d)(1)(iii)). Any amount of the PCTC Program PSC limit remaining after the B season may be reapportioned to the trawl CV open access fishery in the C season.

⁴ “Other species” for PSC monitoring includes skates, sharks, and octopuses.

Table 19 -- Final 2026 and 2027 Halibut Prohibited Species Catch Allowances for Non-Trawl Fisheries (values are rounded to the nearest metric ton)

Non-trawl fisheries	Seasons	Catcher/processor	Catcher vessel	All Non-Trawl
Pacific cod	Annual Pacific cod	648	13	661
	January 1-June 10	388	9	n/a
	June 10-August 15	162	2	n/a
	August 15-December 31	98	2	n/a
Non-Pacific cod non-trawl-Total	May 1-December 31	n/a	n/a	49
Groundfish pot and jig	n/a	n/a	n/a	Exempt
Sablefish hook-and-line	n/a	n/a	n/a	Exempt
Total for all non-trawl PSC	n/a	n/a	n/a	710

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2026 prohibited species catch allowances are effective from 1200 hours, A.I.t., March 18, 2026, through 2400 hours, A.I.t., December 31, 2026. The 2027 prohibited species catch allowances are effective from 0001 hours, A.I.t., January 1, 2027, through 1200 hours, A.I.t., March 18, 2027.

BILLING CODE 3510-22-C*Estimates of Halibut Biomass and Stock Condition*

The IPHC annually assesses the abundance and potential yield of the Pacific halibut stock using all available data from the commercial and sport fisheries, other removals, and scientific surveys. Additional information on the Pacific halibut stock assessment may be found in the IPHC's 2025 Pacific halibut stock assessment (December 2025) available on the IPHC website at: <https://www.iphc.int>. The IPHC considered the 2025 Pacific halibut stock assessment at its January 2026 annual meeting when it set the 2026 commercial halibut fishery catch limits, also available on the IPHC website.

Halibut Discard Mortality Rates (DMRs)

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, DMRs, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut bycatch rates are based on observed estimates of halibut bycatch in the groundfish fishery. DMRs are estimates of the proportion of halibut bycatch that

do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual BSAI stock assessment process.

The DMRs are calculated annually based on a methodology developed by a halibut working group (IPHC, Council, and NMFS staff). The DMR methodology and findings are included as an appendix to the 2024 SAFE report. The updated DMRs calculated using the DMR methodology are reviewed by the Plan Team in September and the SSC in October. The Plan Team and SSC reviewed the 2026 and 2027 DMRs in September 2025 and October 2025, respectively, and that review is available at <https://meetings.npfmc.org/CommentReview/DownloadFile?p=fd11e1a-cb30-4bbb-8b43-90bf787c9800.pdf&fileName=Halibut%20DMR%20Working%20Group%20recommendations%20for%202026-2027.pdf>.

The halibut working group continues to consider improvements to the methodology used to calculate halibut mortality, including potential changes

to the reference period (the period of data used for calculating the DMRs). Future DMRs may change based on additional years of observer sampling, which could provide more recent and accurate data and could improve the accuracy of estimation and progress on methodology. The methodology continues to ensure that NMFS is using DMRs that accurately reflect halibut mortality, which will inform the sectors of their estimated halibut mortality and allow sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

At the October 2025 meeting, the SSC reviewed updated DMRs recommended by the Plan Team that were derived from the DMR methodology, which uses a 2-year and 4-year reference period depending on data availability. The Council then reviewed and recommended proposed 2026 and 2027 DMRs. NMFS adopts for 2026 and 2027 the DMRs reviewed by the Plan Team and SSC and recommended by the Council in October 2025. The final 2026 and 2027 DMRs in this rule are unchanged from the DMRs in the proposed 2026 and 2027 harvest specifications (90 FR 58204, December 16, 2025). Table 20 lists these final 2026 and 2027 DMRs.

Table 20 -- 2026 and 2027 Pacific Halibut Discard Mortality Rates (DMR) for the BSAI

Gear	Sector	Halibut discard mortality rate
Pelagic Trawl	All	1.00
Non-Pelagic Trawl	Mothership and catcher/processor	0.86
Non-Pelagic Trawl	Catcher vessel	0.62
Hook-and-line	Catcher vessel	0.10
Hook-and-line	Catcher/processor	0.10
Pot	All	0.19

Note: The halibut DMRs are effective at 1200 hours, A.I.t., March 18, 2026, through 1200 hours, A.I.t., March 18, 2027.

Salmon PSC Limits

Under § 679.21(f)(2), NMFS annually allocates portions of either 33,318, 45,000, 47,591, or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on: (1) past bycatch performance; (2) whether Chinook salmon bycatch incentive plan agreements (IPAs) are formed and approved by NMFS; and (3) whether NMFS determines it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. The State provides to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping.

If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6), and if it is not a low Chinook salmon abundance year, then NMFS will allocate a portion of the 60,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and if it is not a low abundance year, then NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(C). If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6), and if in a low abundance year, then NMFS will allocate a portion of the 45,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(B). If no IPA is

approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and if in a low abundance year, then NMFS will allocate a portion of the 33,318 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(D).

NMFS has determined that 2025 was a low Chinook salmon abundance year, based on the State's estimate that Chinook salmon abundance in western Alaska is less than 250,000 Chinook salmon. In addition, all AFA sectors are participating in NMFS-approved IPAs, and no sector has exceeded the sector's annual Chinook salmon bycatch performance standard in any 3 of 7 consecutive years. Therefore, in 2026, the Chinook salmon PSC limit is 45,000 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(B). In 2026, the Chinook salmon bycatch performance standard under § 679.21(f)(6) is 33,318 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(D). The AFA sector Chinook salmon PSC limits are also seasonally apportioned with 70 percent for the A season pollock fishery and 30 percent for the B season pollock fishery (§§ 679.21(f)(3)(i) and 679.23(e)(2)). NMFS publishes the approved IPAs, allocations, and reports at: <https://www.fisheries.noaa.gov/alaska/bycatch/chinook-salmon-bycatch-management-alaska>.

Section 679.21(g)(2)(i) specifies 700 fish as the Chinook salmon PSC limit for the AI pollock fishery. Section 679.21(g)(2)(ii) allocates 7.5 percent, or 53 Chinook salmon, as the AI PSQ reserve for the CDQ program, and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(f)(14)(i) specifies 42,000 fish as the non-Chinook salmon

PSC limit for vessels using trawl gear from August 15 through October 14 in the Catcher Vessel Operational Area (CVOA). Section 679.21(f)(14)(ii) allocates 10.7 percent, or 4,494 non-Chinook salmon, in the CVOA as the PSQ reserve for the CDQ program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA to the non-CDQ fisheries. Section 679.21(f)(14)(iv) exempts from closures in the Chum Salmon Savings Area trawl vessels participating in directed fishing for pollock and operating under an IPA approved by NMFS.

CDQ Group Quotas

In 2006, Public Law 109–241 amended section 305(i)(1) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)). This law specifies the allocation of CDQ groundfish among the six CDQ groups. The six CDQ groups are the Aleutian Pribilof Island Community Development Association (APICDA), Bristol Bay Economic Development Corporation (BBEDC), Central Bering Sea Fisherman's Association (CBSFA), Coastal Villages Regional Fund (CVRF), Norton Sound Economic Development Corporation (NSEDCC), and Yukon Delta Fisheries Development Association (YDFDA). NMFS published the CDQ and CDQ PSQ percentages on August 31, 2006 (71 FR 51804). The groundfish and PSC amounts for each CDQ group are based on those percentages as applied to the total CDQ amounts in these harvest specifications. These amounts for each CDQ group are shown in table 21.

BILLING CODE 3510-22-P

Table 21 -- 2026 and 2027 CDQ Program Quota Categories, Target CDQ Reserves, PSQ Reserves, and CDQ Group Quotas (values are rounded to the nearest metric ton. Crab and salmon are in number of animals.)

Species or Species Group	CDQ group quotas						
	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA	Total CDQ Reserves
BS Pollock A season	8,662	12,994	3,094	14,850	13,612	8,662	61,875
BS Pollock B season	10,588	15,881	3,781	18,150	16,638	10,588	75,625
BS Pollock Total	19,250	28,875	6,875	33,000	30,250	19,250	137,500
AI Pollock	266	399	95	456	418	266	1,900
BS Trawl Gear Sablefish	71	74	30	44	44	74	337
BS Fixed Gear Sablefish	135	180	144	0	162	279	900
AI Trawl Gear Sablefish	36	28	11	18	17	29	140
AI Fixed Gear Sablefish	156	212	33	301	257	156	1,116
BS Pacific cod	2,034	2,757	1,167	2,361	2,353	2,497	13,169
AI Pacific cod	148	201	85	172	171	182	958
WAI Atka Mackerel	561	281	150	281	262	337	1,872
CAI Atka Mackerel	761	381	203	381	355	457	2,538
EAI/BS Atka Mackerel	1,339	670	357	670	625	804	4,465
Yellowfin Sole	4,299	3,712	1,242	986	1,131	4,146	15,515
Yellowfin Sole ABC reserves	3,636	3,139	1,050	834	956	3,506	13,122
Rock Sole	1,931	1,846	639	878	880	1,851	8,025
Rock Sole ABC reserves	2,143	2,049	709	974	976	2,054	8,905
Flathead Sole	772	812	342	577	576	772	3,852
Flathead Sole ABC reserves	1,109	1,167	491	829	827	1,109	5,532
BS Greenland Turbot	19	24	10	20	23	24	120
Arrowtooth Flounder	330	330	135	195	180	330	1,498
WAI Pacific ocean perch	385	193	103	193	180	231	1,284
CAI Pacific ocean perch	175	87	47	87	82	105	582
EAI Pacific ocean perch	197	99	53	99	92	118	657
Halibut mortality (mt) BSAI	69	69	28	38	38	72	315
Red king crab (animals) Zone I	2,491	2,180	830	1,245	1,245	2,387	10,379
<i>C. opilio</i> (animals) COBLZ	343,738	329,988	109,996	137,495	109,996	343,738	1,374,950

<i>C. bairdi</i> crab (animals) Zone 1	27,264	25,166	8,389	8,389	8,389	27,264	104,860
<i>C. bairdi</i> crab (animals) Zone 2	76,270	73,092	25,423	34,957	31,779	76,270	317,790
BS Chinook Salmon A Season	410	615	146	703	644	410	2,930
BS Chinook Salmon B Season	104	156	37	178	163	104	743
BS Chinook Salmon Total	517	775	184	886	812	517	3,690
AI Chinook Salmon	7	11	3	13	12	7	53
Non-Chinook Salmon	629	944	225	1,079	989	629	4,494

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2026 target CDQ and PSQ reserves are effective from 1200 hours, A.l.t., March 18, 2026, through 1200 hours, A.l.t., March 18, 2027.

BILLING CODE 3510-22-C

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea, regulatory area, or district (§ 679.20(d)(1)(iii)). Pursuant to § 679.21(b)(4) and (e)(7), if the Regional Administrator determines that a fishery category's bycatch allowance or seasonal apportionment of halibut, red

king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species or species group in that fishery category in the area specified by regulation for the remainder of the season or fishing year.

Based on historical catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in table 22 will be necessary as incidental catch, in addition to ICAs previously mentioned, to support other anticipated groundfish fisheries for the 2026 and 2027 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in table 22 as zero mt. Therefore, in

accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species or species groups in the specified areas effective at 1200 hours, A.l.t., March 18, 2026, through 1200 hours, A.l.t., March 18, 2027. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in table 22 are insufficient to support directed fisheries for the species and species groups listed in table 22. Therefore, in accordance with § 679.21(b)(4)(i) and (e)(7), NMFS is prohibiting directed fishing for these sectors, species, and fishery categories in the specified areas effective at 1200 hours, A.l.t., March 18, 2026, through 1200 hours, A.l.t., March 18, 2027.

BILLING CODE 3510-22-P

Table 22 – 2026 and 2027 Directed Fishing Closures¹ (values are rounded to the nearest metric ton)

Species	Area	Sector	2026 allocation	2027 allocation
Pollock ICA	AI	All	4,500	4,500
	BS	All	46,000	46,000
	Bogoslof District	All	250	250
Pacific cod ICA	BSAI	Hook-and-line/pot	500	500
		A-season CV trawl	1,500	1,500
		B-season CV trawl	600	600
Sablefish	AI	Trawl non-CDQ, non-Amendment 80	1,581	1,581
	BS	Trawl non-CDQ, non-Amendment 80	3,823	3,823
Yellowfin sole ICA	BSAI	All	2,000	2,000
Greenland turbot	AI	All	208	208
Flathead sole ICA	BSAI	All	2,000	2,000
Rock sole ICA ²	BSAI	All	3,000	3,000
Pacific ocean perch ICAs ²	CAI	All	60	60
	EAI	All	100	100
	WAI	All	10	10
Blackspotted/Rougheye rockfish	BS/EAI	All	441	441
	CAI/WAI	All	325	325
Shortraker rockfish	BSAI	All	402	402
Other rockfish	AI	All	415	415
	BS	All	639	639
Atka Mackerel ICAs	BS/FAI	All	800	800
	CAI	All	100	100
	WAI	All	20	20
Skates	BSAI	All	23,499	23,499
Sharks	BSAI	All	340	340
Octopuses	BSAI	All	340	340
Rock sole/flathead sole/Alaska plaice/other flatfish fishery category- halibut mortality, red king crab Zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2	BSAI	BSAI Trawl limited access	0	0
Greenland turbot/arowtooth flounder/Kamchatka flounder/sablefish fishery category- halibut mortality, red king crab Zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2	BSAI	BSAI Trawl limited access	0	0
Rockfish fishery category- red king crab Zone 1	BSAI	BSAI Trawl limited access	0	0

Note: The directed fishing closures are effective at 1200 hours, A.L.T., March 18, 2026, through 1200 hours, A.L.T., March 18, 2027.

¹ Maximum retainable amounts may be found in table 11 to 50 CFR part 679.

² “Other rockfish” includes all *Sebastes* and *Sebastolobus* species except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish (§ 679.2).

under authority of these final 2026 and 2027 harvest specifications and until the date specified in those closure notifications or superseded by a subsequent action. Inseason closures are posted at the following website under the Alaska filter for Management Area: <https://www.fisheries.noaa.gov/rules-and-announcements/bulletins>.

While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found at 50 CFR part 679. NMFS may implement other openings and closures during the 2026 and 2027 fishing years as necessary for effective conservation and management and consistent with the regulations at 50 CFR part 679.

AFA Harvesting Sideboard Limits

Section 679.64 establishes groundfish harvesting sideboard limits on AFA C/Ps and CVs in the BSAI. These sideboard limits are necessary to protect the interests of fishermen and processors who do not directly benefit

from the AFA from those fishermen and processors who received exclusive harvesting and processing privileges under the AFA.

Listed AFA C/P Sideboard Limits

Pursuant to § 679.64(a)(1), the Regional Administrator establishes annual AFA C/P harvest limits for each groundfish species or species group in which a TAC is specified for an area or subarea of the BSAI. Section 679.20(d)(1)(iv)(D) and table 54 to 50 CFR part 679 prohibit listed AFA C/Ps from directed fishing for all groundfish species or species groups subject to sideboard limits. Section 679.64(a)(1)(v) exempts AFA C/Ps from a yellowfin sole sideboard limit because the final aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt. Section 679.64(a)(1)(iii) sets the procedures for calculating AFA C/P sideboard limits when they apply.

Section 679.64(a)(2) and tables 40 and 41 to 50 CFR part 679 establish a formula for calculating PSC sideboard

limits for halibut and crab caught by listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). PSC species listed in table 23 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the final 2026 and 2027 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a final 2026 or 2027 PSC sideboard limit listed in table 23 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC by listed AFA C/Ps while fishing for pollock will accrue against the PSC allowances annually specified for the pollock/Atka mackerel/"other species" fishery categories, according to § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

Table 23 -- Final 2026 and 2027 BSAI American Fisheries Act Listed C/P Prohibited Species Catch Sideboard Limits (values are rounded to the nearest metric ton. Crab are in number of animals.)

PSC species and area ¹	Ratio of PSC to total PSC	2026 and 2027 PSC limit available to trawl vessels after subtraction of PSQ	2026 and 2027 C/P PSC sideboard limit
Halibut	n/a	n/a	286
Red king crab Zone 1	0.007	86,621	606
<i>C. opilio</i> COBLZ	0.153	11,475,050	1,755,683
<i>C. bairdi</i> Zone 1	0.140	875,140	122,520
<i>C. bairdi</i> Zone 2	0.050	2,652,210	132,610

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2026 sideboard limits are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 sideboard limits are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ Refer to § 679.2 for definitions of areas.

AFA CV Sideboard Limits

Section 679.64(b)(3) and (b)(4) and tables 40 and 41 to 50 CFR part 679 establish formulas for setting AFA CV groundfish sideboard limits and halibut and crab PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002), Amendment 80 (72

FR 52668, September 14, 2007), and Amendment 122 (88 FR 53704, August 8, 2023). Section 679.64(b)(6) exempts AFA CVs from a yellowfin sole sideboard limit because the final aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

Section 679.20(d)(1)(iv)(D) and table 55 to 50 CFR part 679 prohibit non-exempt AFA CVs from directed fishing

for a majority of the groundfish species or species groups subject to sideboard limits. The only remaining sideboard limit for non-exempt AFA CVs is for Pacific cod. Pursuant to amendment 122 to the FMP, the Pacific cod sideboard limit is no longer necessary in the A and B seasons because directed fishing in the BSAI for Pacific cod by trawl CVs is now managed under the PCTC Program, and accordingly the sideboard limit is in effect in the C season only

(§ 679.64(b)(3)(ii)). Table 24 lists the final 2026 and 2027 non-exempt AFA CV groundfish sideboard limits.

Table 24 -- Final 2026 and 2027 BSAI Pacific Cod Sideboard Limits for Non-Exempt American Fisheries Act CVs (values are rounded to the nearest metric ton)

Fishery by area/gear/season	Ratio of 1997 AFA CV Catch to 1997 TAC	2026 allocation for C season	2026 AFA CV sideboard limit	2027 allocation for C season	2027 AFA CV sideboard limit
Pacific cod BSAI	n/a	n/a	n/a	n/a	n/a
Trawl gear CV	n/a	n/a	n/a	n/a	n/a
Jun 10-Nov 1	0.8609	3,908	3,364	3,908	3,364

Note: The 2026 AFA CV Pacific cod sideboard limit is effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 AFA CV Pacific cod sideboard limit is effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

Halibut and crab PSC limits listed in table 25 that are caught by AFA CVs participating in any groundfish fishery other than pollock will accrue against the final 2026 and 2027 PSC sideboard limits for the AFA CVs. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7)

authorizes NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a final 2026 or 2027 PSC sideboard limit listed in table 25 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC by AFA CVs while

fishing for pollock will accrue against the PSC allowances annually specified for the pollock/Atka mackerel/“other species” fishery categories, according to § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

BILLING CODE 3510-22-P

Table 25 -- Final 2026 and 2027 American Fisheries Act CV Prohibited Species Catch Sideboard Limits for the BSAI¹ (values are rounded to the nearest metric ton. Crab are in number of animals.)

PSC species and area ¹	Target fishery category ²	AFA CV PSC sideboard limit ratio	2026 and 2027 PSC limit available to trawl vessels after subtraction of PSQ	2026 and 2027 CV PSC sideboard limit
Halibut	Pacific cod Trawl	n/a	n/a	n/a
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/Alaska plaice/other flatfish ³	n/a	n/a	228
	Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species ⁴	n/a	n/a	5
Red king crab Zone 1	n/a	0.299	86,621	25,900
<i>C. opilio</i> COBLZ	n/a	0.168	11,475,050	1,927,808
<i>C. bairdi</i> Zone 1	n/a	0.330	875,140	288,796
<i>C. bairdi</i> Zone 2	n/a	0.186	2,652,210	493,311

Note: Seasonal or sector apportionments may not total precisely due to rounding. The 2026 sideboard limits are effective from 1200 hours, A.L.T., March 18, 2026, through 2400 hours, A.L.T., December 31, 2026. The 2027 sideboard limits are effective from 0001 hours, A.L.T., January 1, 2027, through 1200 hours, A.L.T., March 18, 2027.

¹ Refer to § 679.2 for definitions of areas.

² Target trawl fishery categories are defined at § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

³ “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

⁴ “Other species” for PSC monitoring includes skates, sharks, and octopuses.

BILLING CODE 3510-22-C

Response to Comments

NMFS received 5 letters with 15 unique comments during the public comment period for the proposed BSAI groundfish harvest specifications (90 FR 58204, December 16, 2025). Four letters were from organizations, and one letter was from an individual. NMFS's responses are below.

Comment 1: The Final EIS and ROD are outdated and NMFS must prepare a new or supplemental EIS on the harvest specifications. Without these updated analyses, NMFS is thwarting the

purposes of the National Environmental Policy Act (NEPA) and engaging in uninformed decision making. There are significant new circumstances and information relevant to environmental concerns and bearing on the proposed action and its impacts. New information includes information related to climate variability, marine heatwave impacts, vessel strikes and entanglements, pelagic trawl bottom contact, impacts on northern fur seal prey, salmon bycatch, hatchery salmon impacts on aquatic ecosystems, and plastics. This significant new information indicates the trawl fisheries are having harmful

environmental effects to an extent not previously considered in the existing NEPA analyses for the fisheries.

Response: A new EIS is not necessary for NMFS to approve and implement the 2026 and 2027 groundfish harvest specifications for the BSAI and GOA because NMFS implements the specifications each year based on the harvest strategy analyzed as an alternative in the Final EIS and selected in the ROD. In short, NMFS already prepared an EIS that supports these final groundfish harvest specifications and has taken a “hard look” and determined, as documented in the 2026

SIR, that supplementation of the Final EIS is not required for NMFS to approve and implement the 2026 and 2027 groundfish harvest specifications for the BSAI and GOA.

Groundfish harvests are managed subject to annual limits on the retained and discarded catch amounts of each stock and stock complex. The “harvest strategy” is the method used to calculate these annual limits, referred to as “harvest specifications,” and the process of establishing them is referred to as the “specifications process.” NMFS prepared the Final EIS to analyze the environmental, social, and economic impacts of alternative harvest strategies used to determine the annual harvest specifications for the federally managed groundfish fisheries in the GOA and BSAI management area.

The purpose of the harvest strategy is to: (1) provide for orderly and controlled commercial fishing for groundfish; (2) promote sustainable incomes to the fishing, fish processing, and support industries; (3) support sustainable fishing communities; and (4) provide sustainable flows of fish products to consumers. The harvest strategy balances groundfish harvest in the fishing year with ecosystem needs (e.g., non-target fish stocks, marine mammals, seabirds, and habitat). Importantly, the harvest strategy and specification process are designed to use the best available scientific information developed through the SAFE report (including the ESRs) to calculate the status determination criteria, assess the status of each stock, and set the TACs.

In the ROD, NMFS selected one of the alternative harvest strategies analyzed in the Final EIS: to set TACs that fall within the range of ABCs recommended through the harvest specifications process. NMFS concluded that the preferred harvest strategy analyzed in the Final EIS and selected in the ROD provides the best balance among relevant environmental, social, and economic considerations and allows for continued management of the groundfish fisheries based on the most recent, best scientific information. While the specific numbers that the harvest strategy produces may vary from year to year, the methodology used for the preferred harvest strategy remains constant. NMFS has not changed the harvest strategy or specifications process from what was analyzed in the Final EIS.

As recognized in the ROD, the preferred alternative harvest strategy (1) prevents overfishing because it is consistent with the ABCs for the target species recommended on the basis of the best scientific information; (2) sets

TACs that fall within the BSAI OY range, which is set to reflect ecosystem constraints; (3) works within a broad range of existing and evolving fishery management measures meant to balance harvest for fishing and processing industries and communities and environmental harm and ecosystem impacts, while also facilitating continued harvests of BSAI groundfish; and (4) allows for management of target species within harvest limits that are based on the best scientific information available, including ecosystem information.

The harvest strategy employs the same process each year but is designed to consider the most current, available information on stock status and ecosystem conditions so that the outputs of the process (OFLs, ABCs, and TACs) are adaptive and reflective of current conditions. Each year the strategy uses the best scientific information available in the SAFE reports to derive the annual harvest specifications for OFLs, ABCs, and TACs. Through this process, each year, the Groundfish Plan Teams for the BSAI and GOA (Groundfish Plan Teams) use the most recent stock assessments based on survey results and other biological data to calculate biomass, OFLs, and ABCs for each stock and stock complex. The OFLs and ABCs are published with the harvest specifications, and provide the foundation for the Council and NMFS to develop the TACs. The OFLs and ABCs reflect fishery science, applied in light of the requirements of the FMPs. The Council uses the AP report as a basis for TAC recommendations, which are consistent with the SSC’s OFL and ABC recommendations (i.e., the TAC recommendations cannot exceed the SSC’s ABC recommendations, and ABCs cannot exceed OFLs).

The Final EIS evaluated the consequences of alternative harvest strategies on ecosystem components and on the ecosystem as a whole. The Final EIS evaluated the alternatives for their effects within the action area. The environmental consequences of each alternative were considered for the following resource components: target species, non-specified species, forage species, prohibited species, marine mammals, seabirds, habitat (Essential Fish Habitat (EFH)), ecosystem relationships, and socioeconomic impacts. These considerations were evaluated based on the conditions as they existed at the time the Final EIS was developed, but the Final EIS also anticipated potential changes in these conditions, including climate variability, would be incorporated, as

appropriate, through the annual implementation of the harvest strategy. Each year since 2007 NMFS has considered in the SIR process relevant changes (i.e., new information, changed circumstances, potential changes to the action) for the primary purpose of evaluating the need to supplement the Final EIS.

Consistent with the NEPA and NOAA’s Policy and Procedures for Compliance with the NEPA and Related Authorities, Companion Manual for NOAA Administrative Order 216–6A, NMFS should prepare supplements to either draft or final environmental impact statements if a major federal action remains to occur and: (i) the agency makes substantial changes to the proposed action that are relevant to environmental concerns; or (ii) there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis (*Marsh v. Oregon Nat. Res. Council*, 490 U.S. 360, 371–373 (1989)). The Companion Manual states that NMFS may choose to prepare a SIR for determining whether supplementation is necessary; the SIR is a decision tool that documents NMFS’s evaluation of new information, changed circumstances, or proposed changes to an action and assists in determining whether a supplemental NEPA document is necessary. Ultimately, an agency is required to take a “hard look” at the new information to assess whether supplementation might be necessary (*Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72–73 (2004)).

NMFS prepares a SIR each year to take that hard look and document the evaluation and decision whether a supplemental EIS (SEIS) is necessary to implement the annual groundfish harvest specifications. To do this, NMFS analyzes the available information to determine whether an SEIS must be prepared. The primary sources of information are the SAFE reports, which represent the best scientific information available for the harvest specifications. Included in the SAFE reports are the groundfish stock assessments and any ESPs and the ESRs. Several other regularly updated reports are available as resources, including reports on ecosystem component species (e.g., forage fish report); the Economic SAFE report; marine mammal stock assessment reports, Endangered Species Act (ESA) 5-year status reviews, and other ESA and marine mammal specific reports; EFH 5-year reviews; NMFS inseason management reports and reports on catch, bycatch, and incidental take in the fisheries; and analyses prepared to support other

NMFS management actions when relevant. To date, no annual SIR has concluded that an SEIS is necessary.

The SIR recognizes the preferred harvest strategy analyzed in the Final EIS and selected in the ROD was built on an annual process to compile and utilize the most recent, best scientific information available on stock abundance and condition, harvest and survey data, environmental and ecosystem factors, and socioeconomic conditions. The Final EIS contemplates that the annual process was built on flexibility to allow for the implementation of annual harvest specifications that reflect new information and changing circumstances in the context of the considerations in the Final EIS.

NMFS utilizes a two-part inquiry to assess the need for an SEIS. First, NMFS analyzes whether there are substantial changes in the proposed action that are relevant to environmental concerns, or, in other words, NMFS considers whether the harvest strategy changed in such a way that it is meaningfully different than how the strategy was considered and evaluated in the Final EIS. Second, NMFS assesses if there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis in the Final EIS, or, in other words, NMFS considers whether there is new information that would alter the conclusions on impacts of the implementation of the harvest strategy that were made in that EIS. Ultimately, NMFS considers whether there is substantial new information that indicates implementation of the harvest specifications will affect the environment in a significant manner or to a significant extent not considered in the Final EIS.

First, NMFS has determined that the 2026 and 2027 harvest specifications for the BSAI are consistent with the preferred alternative harvest strategy analyzed in the Final EIS and selected in the ROD because they were developed through the harvest specifications process, are within the OY established for the BSAI, and do not set TAC to exceed the ABC for any single stock or stock complex.

Second, NMFS has concluded that the best available, most recent information presented on stock abundance and condition, harvest and survey data, environmental and ecosystem factors, and socioeconomic conditions and used to set the 2026 and 2027 harvest specifications does not represent a significant change relative to the environmental impacts of the preferred harvest strategy analyzed in the Final

EIS. As documented in the 2026 SIR, NMFS assessed relevant information and circumstances regarding the following resource components: (1) systemic ecosystem effects; (2) target species, non-specified and forage species, and prohibited species catch; (3) marine mammals; (4) seabirds; and (5) habitat impacts. In this assessment, the SIR summarizes the analysis of impacts to each resource component in the Final EIS. The SIR relies on the most recent and best available information on each of the resource components to then evaluate whether any new information and circumstances present a seriously different picture of the likely environmental harms of the action to occur (the annual implementation of the 2026 and 2027 groundfish harvest specifications) beyond what was considered in the Final EIS. For each resource component, NMFS concluded in the 2026 SIR that the implementation of the 2026 and 2027 harvest specifications will not affect the resource component in a significant manner or to a significant extent not considered in the Final EIS.

Based on the SIR prepared in conjunction with these harvest specifications, NMFS determined that the 2026 and 2027 groundfish harvest specifications do not constitute a substantial change in the proposed action analyzed in the Final EIS and there are no substantial new circumstances or information about the significance of adverse effects that bear on the analysis in the Final EIS. More details are provided in the 2026 SIR (see **ADDRESSES**).

Comment 2: Recent marine heatwaves in the North Pacific and Bering Sea have caused widespread, long-lasting ecosystem impacts, with climate-driven warming stressing fish populations by reducing growth and energy reserves, while declining sea ice and increasing ocean acidification further threaten the region's marine ecosystem.

Response: Climate variability is accounted for in NMFS's decision-making on the annual implementation of the harvest specifications, consistent with the harvest strategy in the FMP and analyzed in the Final EIS (see Response to Comment 1).

The harvest specifications process uses the best scientific information available on climate variability, as summarized primarily from the SAFE reports (including the ESRs). The information from SAFE reports and other sources are considered during the harvest specifications process and used to evaluate risk, uncertainty, and ecosystem factors when setting TACs in the manner consistent with the

preferred strategy contemplated by the Final EIS and ROD.

Chapter 3.5 of the Final EIS examined existing physical and oceanographic conditions in the BSAI and GOA, and addressed climate and ecological regime shifts, warming and loss of sea ice, and acidification. Climate variability is known to impact all three issues used to assess systemic ecosystem impacts in the Final EIS: (1) predator-prey relationships, (2) energy flow and removal, and (3) diversity.

The annual harvest specifications process continues to assess systemic ecosystem impacts across the three issues analyzed in the Final EIS. Ongoing research has increased NMFS's understanding of the interactions among ecosystem components, including how they are impacted by changing environmental and climate conditions. Advances in research (e.g., genomic sequencing, electronic catch) and engineering (e.g., autonomous sampling vehicles, ship-based acoustic monitoring) have also expanded the breadth of information available for consideration in the annual harvest specifications process since the Final EIS.

SAFE reports and ESRs summarize and present information about ecosystem status and trends, physical oceanography, biological data, and socio-ecological dimensions. There are many examples of climate variability considerations presented in the ESRs, including: (1) physical indicators and oceanographic metrics (e.g., sea surface and bottom temperatures, marine heatwaves, wind, sea-ice, and cold pool extents); (2) impacts from oceanographic changes (e.g., changes in sea ice and cold pool extents resulting in distributional shifts in space (e.g., northward) and time (e.g., earlier/later seasonal movement) in stocks); (3) climate-driven changes to metabolic demands and foraging conditions tied to declining conditions for groundfish during recent marine heatwaves; (4) impacts of anomalously warm conditions in the marine and river environments on juveniles and adults of certain salmon stocks; and (5) emerging stressors like ocean acidification and implications for species (e.g., crab, mollusks). In addition, recent ESRs have reported indices of borealization in the southeastern Bering Sea in order to monitor ecosystem-level responses to warming conditions.

The Groundfish Plan Teams, SSC, AP, and the Council review the ESRs prior to the review of the stock assessments and advancing recommendations to NMFS for the annual OFLs, ABCs, and TACs. The ESRs provide the scientific

review body (the SSC) with context for the annual biological reference points (OFLs and ABCs), and for the Council's final TAC recommendations for groundfish, which are constrained by those biological reference points. Information from the ESRs are also integrated into the annual harvest recommendations through inclusion in stock assessment-specific risk tables (see Responses to Comments 4 and 8 for more information on risk tables).

Finally, the FMP indicated that the ongoing consideration of factors like climate variability would be addressed in the SAFE reports (FMP Sections 3.2.2.2 and 3.2.3.1.2), as is currently the case with both the individual stock assessments and the ESRs. As a result, the annual harvest specifications process, which implements the preferred alternative harvest strategy under the Final EIS and ROD, allows for the consideration of the best scientific information available on climate variability (16 U.S.C. 1851(a)(2); § 600.315).

Comment 3: The harvest specifications are in violation of the Council's peer review process, SSC guidelines, and National Standard 2 because there was no 2025 SAFE report and no recommendations from the Plan Team. The 2024 SAFE is stale and outdated.

Response: NMFS is required to implement harvest specifications consistent with the Magnuson-Stevens Act, implementing regulations, and the FMP. NMFS has determined the final harvest specifications are consistent with the Magnuson-Stevens Act, including National Standard 2, implementing regulations, and the FMP, and align with other guidelines like the SSC Handbook.

The Magnuson-Stevens Act requires that conservation and management measures be based on the best scientific information available (16 U.S.C. 1851(a)(2)) and that the SSC provide scientific advice for fishery management decisions, including recommendations for ABCs, preventing overfishing, and reports on stock status and health (16 U.S.C. 1852(g)(1)(B)). Regulations implementing the FMP require NMFS to publish proposed specifications after consultation with the Council and provide an opportunity for public comment before finalizing specifications (§ 679.20(c)).

Under the FMP, the Council develops harvest specification recommendations for NMFS's consideration based on: (1) recommendations and supporting information from the Groundfish Plan Teams and SSC; (2) information from the AP and the public; and (3) other

relevant information. The SAFE report that informs harvest specifications is reviewed by the Groundfish Plan Teams, SSC, AP, and Council. The FMP and SSC Handbook specify that SSC review constitutes the official scientific review under the Information Quality Act and that SAFE reports accepted by the SSC constitute the best scientific information available for purposes of the Magnuson-Stevens Act (FMP Section 3.2.3.1.2). The SSC Handbook also indicates that the SSC recommends OFLs and ABCs after reviewing the stock assessment and the report of the Plan Team that reviewed the stock assessment. The SSC Handbook is available at: <https://files.npfmc.org/membership/SSC/SSCHandbook.pdf>.

NMFS acknowledges there was a disruption in the completion of the stock assessments that were scheduled for update in 2025, and the November 2025 Plan Team meetings were canceled (since there were no updated stock assessments to review at that time). However, this disruption does not render the final harvest specifications inconsistent with the Magnuson-Stevens Act, implementing regulations, or the FMP. The 2026 and 2027 OFLs and ABCs are unchanged from specifications previously reviewed by the Plan Team and SSC. The OFLs and ABCs recommended in 2025 were based on the 2024 SAFE report, which underwent full review by the Plan Team and SSC in 2024 and informed the final 2025 and 2026 harvest specifications. The same OFLs and ABCs were subsequently reviewed again by the Plan Team in October 2025 and by the SSC in October 2025 for the proposed specifications using the 2024 SAFE report, the same as in prior years. This year, the OFLs and ABCs were then reviewed again by SSC in December 2025 using the 2024 SAFE report for the final harvest specifications. Even with the disruptions in 2025, this review by the Plan Team and SSC remains consistent with the FMP and aligns with the SSC Handbook. The SSC further fulfilled its statutory role by recommending ABCs and OFLs to prevent overfishing and by reviewing stock status and health.

In addition to the 2024 stock assessments, additional information was reviewed and considered during the process: prior SAFE reports, BSAI catch reports for 2024 and 2025, biomass and survey trend summaries, 2025 survey information, the 2024 ESRs, and preliminary ESRs and ESPs from October 2025. The information accepted by the SSC constitutes the best scientific information available for purposes of the Magnuson-Stevens Act. The annual harvest specification process this year

therefore relies on the best scientific information available, including peer-reviewed stock assessments by the Plan Team in 2024 and September 2025 and the SSC in 2024 and 2025 (16 U.S.C. 1851(a)(2); § 600.315).

The Council recommended proposed TACs at its October 2025 meeting and final TACs at its December 2025 meeting. The Plan Team, SSC, AP, and Council meetings are open to the public both virtually and in person and provide an opportunity for public comment. The SAFE reports are available online (see **ADDRESSES**). In addition, NMFS published the proposed rule for the 2026 and 2027 harvest specifications on December 16, 2025, and public comment was invited through January 5, 2026 (90 FR 58204). Development of the harvest specifications was fully transparent, with multiple opportunities for public review and comment at the Plan Team, SSC, AP, and Council meetings and through the public comment period announced in the **Federal Register**.

NMFS is now implementing these final harvest specifications after consultation with the Council and consideration of public comment received on the proposed specifications. This is consistent with the requirements of the Magnuson-Stevens Act and implementing regulations and consistent with the process described in the FMP.

Comment 4: The TACs should be set at the most conservative and precautionary level at the lower limit of the OY of 1.4 million mt. The current process does not account for uncertainty that faces the ecosystem and fisheries.

Response: The groundfish harvest specifications process and resulting TACs incorporates available information on the status of the ecosystems, accounts for uncertainty and risk, and is precautionary, and for these reasons NMFS does not agree that TACs should be set lower than the current sum of 2.0 million mt.

The FMP and implementing regulations direct that the sum of the TACs for the BSAI "must be within the OY range specified" in regulation (§ 679.20(a)(1)(i)(A), (a)(2)). The sum of the TACs for 2026 and 2027 are 2.0 million mt per year, which are within the OY range specified in regulation of 1.4 million to 2.0 million mt. This OY, which was previously recommended by the Council and approved by NMFS, is set forth in the FMP and in regulation. NMFS has therefore determined that, in any given year, setting the TACs to fall within the OY range is consistent with the Magnuson-Stevens Act and provides the greatest overall benefit to the Nation,

particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems and relevant economic, social, or ecological factors (§ 600.310(e)(3)).

Setting the TACs to meet the upper bound of the OY range of 2.0 million mt represents a 37 percent reduction below the total groundfish ABC and balances relevant National Standard 1 considerations. Setting TACs at the higher bound of the OY will provide the greatest benefit for the Nation based on the benefits of maintaining viable groundfish fisheries and contributions to regional and local economies. The 37 percent reduction from total groundfish ABC recognizes the benefits that flow from that reduction, such as protections afforded to marine ecosystems, forage for ecosystem components, and other ecological factors (§ 600.310(e)(3)(iii)).

NMFS does not agree that TACs should be set any lower than the current sum. These TACs account for the current status of fish stocks and the BSAI ecosystem, while also accounting for current uncertainties and socioeconomic considerations across the fisheries and communities of the BSAI. The harvest specifications process is a robust process that involves significant scientific review and input and uses the best scientific information available when applying the harvest strategy to establish annual harvest specifications. Scientists from the AFSC prepare the stock assessments using sophisticated statistical analyses of fish populations. The assessments for the BSAI are informed by the survey and harvest data available, including multiple annual surveys in the Eastern Bering Sea and biennial surveys in the AI. The stock assessments undergo rigorous review, during public meetings, by the scientists and resource managers on the Plan Team and SSC. The Plan Team first reviews the stock assessments and recommends OFLs and ABCs for each stock or stock complex for specified management areas. The SSC then reviews the assessments and recommends OFLs and ABCs, which provide the foundation for the Council to recommend and NMFS to establish the TAC for each stock or stock complex. The status of fish stocks in the BSAI is reviewed in each stock assessment; the status of the BS and AI ecosystems are compiled in ESRs and other reports that are expressly considered throughout the process; and the status of fisheries and fishing communities are also compiled in several reports and presented during public comment.

Precaution that accounts for uncertainties and risk is embedded in the harvest strategy and in the annual stock assessment process for specifying OFLs, ABCs, and TACs for BSAI groundfish stocks. First, OFL and ABC are calculated for each stock and stock complex using prescribed methods set forth in the FMP. These methods become more precautionary depending on the tier level and stock status: for example, with less reliable information, the larger the buffer (reduction) between OFL and ABC, and as stock status declines, the OFL and ABC are reduced. Calculating OFLs and ABCs using this tier system accounts for uncertainties as it is based on the level of reliable information about the stock and is adaptive based on stock status. Precaution built into the specification of OFL and ABC also influences TAC as TAC cannot exceed ABC and ABC cannot exceed OFL.

Second, the risk tables are a tool prepared for Alaska groundfish stocks to specifically address uncertainty across four considerations: assessment-related, population dynamics, environmental/ecosystem, and fishery performance. Risk tables account for additional scientific information and uncertainty that are not captured in the modeling, consistent with the FMP and National Standard 1 regulations that ABC accounts for scientific uncertainty in the estimate of OFL and “any other scientific uncertainty” (§ 600.310(f)(1)(ii)). The risk table is used to evaluate the severity and level of concern regarding those four considerations, including environmental/ecosystem considerations, and that evaluation can inform a scientific recommendation to further reduce ABC. Because TAC cannot exceed ABC, reductions in ABC for scientific uncertainty based on the risk table result in additional precaution in the catch limits (TACs) for groundfish of the BSAI.

Third, the sum of all TACs must be within the OY range, which in the BSAI constrains the TACs that NMFS can implement. Since the sum of all TACs in the BSAI well exceeds the upper range of OY, even though TACs can be set up to ABC, some TACs must be set lower than ABCs to ensure the sum of all TACs falls within the OY range (§ 679.20(a)(1)(i)(A) and (a)(2)). While there is precaution built into the specification of each ABC (a reduction from OFL, representing scientific uncertainty) and TAC (a reduction from ABC, representing management uncertainty), the OY range is further constraining and precautionary across the ecosystem in the BSAI by reducing

fishery removals up to the TACs implemented in this final rule. This result further reduces impacts to the ecosystem from fishing for groundfish species.

Any additional uncertainty in this year's process was addressed by the SSC in December 2025 and summarized in the SSC report. At its December 2025 meeting during which the SSC recommended final 2026 and 2027 OFLs and ABCs, the SSC recognized that the lack of new assessments in 2025 due to the government shutdown increases uncertainty and elevates risk for all stocks. In implementing what the SSC called a “structured process” for developing its OFL and ABC recommendations in light of this increased uncertainty and risk, the SSC used as a starting point the proposed OFLs and ABCs for 2026 that were recommended by the SSC in October 2025; these are the final OFLs and ABCs for 2026 that were reviewed in the 2024 cycle and are based on the 2024 SAFE report. Under the SSC's framework, the SSC then evaluated whether any stocks should be considered for potential changes to those proposed specifications and whether individual stocks warranted consideration of additional conservation. The SSC explained that “the framework established criteria for considering whether the [proposed] specifications, which were based on the most recent fully peer reviewed SAFE reports, remain the best available scientific advice.”

The SSC's stock-specific deliberations focused on whether additional uncertainty and risk were sufficient to warrant reductions in ABC (which influences TAC because TAC cannot exceed ABC). SSC discussions highlighted the need to explicitly consider the increase in uncertainty as stock trends and reference points are projected forward over multiple years, but noted that an approach for quantifying increased uncertainty could not be developed in the current timeframe. Ultimately, the SSC used the established qualitative risk table framework for consistency across years in order to inform whether reductions in ABC were warranted on the basis of the best information available during this year's specifications process. The SSC also explained that the specifications process is based on the tier system, precautionary harvest control rules, and assessment frequencies that reflect different life history dynamics and are periodically reviewed and adjusted. In sum, while the SSC recognized the potential for increased uncertainty and risk in developing the 2026 and 2027

OFLs and ABCs, additional uncertainty and risk were expressly assessed by the SSC for each stock through the evaluation of the risk tables, which are an established method for assessing additional scientific information and uncertainty that are not captured in the modeling for calculating ABC. The SSC's December 2025 report is available at: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=74322a78-4de1-451c-a10f-13b11286f8b9.pdf&fileName=Draft%20SSC%20Report%20Dec%202025.pdf>.

Comment 5: The PSC limits should be set at the most conservative and precautionary level for the BSAI and must address bycatch mortality of crab, halibut, and salmon. The information used to set the PSC limits is stale and outdated.

Response: The harvest specifications set PSC limits based on pre-existing frameworks set out in regulation. In these final harvest specifications, NMFS implements PSC limits consistent with the requirements of the regulations for setting PSC limits and based on the most recent information available.

National Standard 9 directs that conservation and management measures shall, to the extent practicable, minimize bycatch, and, if bycatch cannot be avoided, minimize mortality of bycatch (16 U.S.C. 1851(a)(9)). The Council recommends and NMFS develops and implements FMP amendments and regulations for new bycatch reduction measures, including PSC limits, based on those recommendations. Each of these actions establishing a PSC limit considered and balanced all the National Standards, including the direction to minimize bycatch and bycatch mortality, including PSC, to the extent practicable. Specifying PSC limits in the annual harvest specifications consistent with the existing PSC regulations is therefore consistent with National Standard 9. The Council and NMFS are committed to continued improvements in bycatch management and have undertaken or are currently considering actions to address PSC (this includes amendment 123 to address halibut PSC in the Amendment 80 sector). However, changes to PSC limits and bycatch management are outside the scope of this final rule to implement the 2026 and 2027 groundfish harvest specifications for the BSAI.

Regulations at § 679.21 set forth PSC limits for the BSAI groundfish fisheries for PSC species (halibut, crab, herring, and salmon). Some PSC limits in the BSAI are fixed limits set in regulation such that there is no updated

information needed: the halibut PSC limits for the BSAI trawl limited access sector, BSAI non-trawl sector, and CDQ Program; non-Chinook salmon PSC limit in the CVOA; and Chinook salmon PSC limit for the Aleutian Islands pollock fishery (§ 679.21(b), (f), and (g)).

Other PSC limits in the BSAI are set in the groundfish harvest specifications based on specific regulatory criteria and updated information, as dictated in regulation: halibut PSC limit for Amendment 80 sector (AFSC Eastern Bering Sea shelf trawl survey index and IPHC setline survey index); Tanner crab and snow crab PSC limits for trawl fisheries (NMFS annual bottom trawl survey); and Chinook salmon PSC limits for Bering Sea pollock fishery (State of Alaska 3–System Index for western Alaska) (§ 679.21(b), (e), and (f)). In specifying these PSC limits in this final rule, NMFS used the 2025 AFSC Eastern Bering Sea shelf trawl survey index and IPHC setline survey index, the 2025 NMFS annual bottom trawl survey, and the 2025 State of Alaska 3–System Index for western Alaska, as required by § 679.21 (see sections above titled PSC Limits for Halibut, Crab, and Herring, and Salmon PSC Limits).

The regulations do not specify the information to be used to set the red king crab (based on abundance and spawning biomass) and herring (annual eastern Bering Sea herring biomass) PSC limits. For red king crab, NMFS used the 2025 NMFS annual bottom trawl survey, and for herring NMFS used the State's 2024 estimate of herring biomass.

Comment 6: NMFS should revise the 2026 and 2027 BSAI groundfish harvest specifications to incorporate stronger bycatch limits, improved monitoring, and precautionary reductions where ecosystem indicators warrant it.

Response: Changes to bycatch limits and monitoring are outside the scope of this final rule to implement the 2026 and 2027 groundfish harvest specifications for the BSAI. Information on bycatch limits is provided in Response to Comment 5.

Each year NMFS publishes an Annual Deployment Plan (ADP) describing how observers and electronic monitoring (EM) are assigned to Alaska halibut and groundfish fisheries to collect scientifically sound, representative data on catch and fishing activity. This information supports stock assessments, bycatch estimation, quota monitoring, and other fishery management and conservation needs, while allowing NMFS to meet monitoring objectives and adapt to changing fishery conditions and technologies. More information on the North Pacific Observer Program is available in the

2026 ADP: https://www.fisheries.noaa.gov/s3/2026-01/Final_2026_ADPAkro.pdf.

As explained in the 2026 ADP, the Observer Program is the largest observer program in the country and is responsible for monitoring a fleet of nearly 1,000 vessels that fish a combination of hook-and-line, pot, and trawl gear across the Alaska EEZ. Fishing activities belong to either partial or full coverage components of the program. In the full coverage component of the program, every trip is monitored by 1 or 2 observers, or, in the case of pollock catcher vessels, has EM on 100 percent of the time, and the vast majority of groundfish harvest is covered by this portion of the program. The full coverage component includes the pollock trawl fishery, PCTC Program fishery, Amendment 80 fishery, and all mothership vessels. In the partial coverage component, a subset of trips are randomly selected for monitoring by an observer or EM system. In 2026, NMFS expects to monitor a total of 4,341 trips and 22,110 days, consisting of an estimated 2,868 trips and 17,461 days in the full coverage component of the program, and 1,473 trips and 4,649 days in the partial coverage component.

For more information on how this process accounts for uncertainty and risk, is precautionary, and includes ecosystem information, see Response to Comments 3, 4, 5, and 8.

Comment 7: Alaska's coastal communities cannot continue bearing the consequences of a management system that prioritizes volume over sustainability.

Response: NMFS recognizes the importance of the communities that depend on Alaska fisheries. NMFS also recognizes the harvest specifications, in particular the specification of TACs, affect fishery participants and communities.

One of the purposes of the harvest strategy used to develop the harvest specifications is to support sustainable fishing communities. The harvest specifications specify TAC amounts for harvest by fishing vessels and processing by fish processors, both of which are supported by businesses located in coastal communities. Many coastal communities rely on processing plants to generate revenue and employ community members, and reducing the amount of fish landed in these communities could have detrimental economic effects on these communities.

The TAC amounts are set each year based on consideration of the best scientific information available and public comment relevant to impacts on coastal communities. The Economic

SAFE, ESRs, and ESPs provide relevant information on the status of fishery participants and communities throughout Alaska and relevant socioeconomic indicators are presented in the ESRs and ESPs. As noted in the 2024 ESRs, the majority of Alaska groundfish and crab fisheries are sustainably managed.

The harvest specifications are also informed by public comment that can be provided at every step through the Council and NMFS process. Public comment can inform the Council's and NMFS's consideration in recommending and setting TACs, respectively, such as impacts to coastal communities. The AP also reviews and provides TAC recommendations to the Council. The Council appoints to the AP recognized experts from the fishing industry and related fields who represent a variety of gear types, industry, and related interests as well as a spread of geographic regions of Alaska and the Pacific Northwest having major interest in the fisheries off Alaska. The AP also has a designated Alaska Native Tribal Representative seat. The purpose of the AP is to represent and provide the perspectives of fishery participants and affected communities. Through its role, the AP provides perspectives on the socioeconomic and cultural impacts of TAC and PSC amounts on fishery participants and affected communities. During this annual process, NMFS also publishes the proposed specifications and invites public comment. This provides the public with another opportunity to offer NMFS information and input for consideration on the socioeconomic impacts of the proposed TACs for each stock or stock complex.

Ultimately, every final 2026 and 2027 TAC has been specified within the robust, precautionary framework outlined in Response to Comment 4; this framework is designed to prevent overfishing while achieving the OY for the BSAI groundfish fisheries. These TACs, as specified under the harvest strategy, are within the OY range for the BSAI groundfish fisheries and support sustainable fishing communities while also providing for sustainable incomes for fishery participants.

Comment 8: Setting TAC above precautionary or conservative levels will worsen bycatch impacts to the ecosystems and harm local Alaska communities dependent on them. NMFS should prioritize conservation of species important to coastal communities.

Response: The TAC setting process accounts for ecosystem and socioeconomic information, such as impacts on communities. The TACs

specified in this final rule are consistent with regulations on bycatch, are implemented in consideration of ecosystem information, are based on precaution that is built in to the process, and are reflective of socioeconomic considerations, like effects on communities. Effects on communities is also addressed in Response to Comment 7. The specification of bycatch (PSC) limits is addressed in Response to Comment 5. Response to Comment 4 addresses the precautionary measures embedded in the harvest specification process, and Response to Comment 2 details other reports that inform stock assessments and the harvest specification process.

The annual process for specifying TACs for groundfish in the BSAI is a thorough, scientifically driven process informed by the best available information on the status of target and bycatch species and the marine ecosystems in the BS and AI as well as socioeconomic considerations like harvest data and impacts on fishery participants and communities. The primary sources of ecosystem information are the ESRs, which provide the Plan Team, SSC, AP, Council, scientific community, and the public, as well as NMFS, with information about ecosystem status and trends for the BS and AI ecosystems. The ESRs are drafted by scientists and staff from NOAA, other federal and state agencies, academic institutions, Tribes, and non-profits.

Ecosystem information from the ESRs, as well as ESPs, is integrated into the stock assessments for target species in several ways. Stock assessment authors will include, if possible, relevant ecosystem-related factors into their modeling. Many models use variables that are potentially ecosystem-related, climate-impacted like size and condition of fish (*i.e.*, length and weight) and recruitment, and some models integrate specific environmental factors that have been influenced by climate variability, such as the extent of the cold pool and bottom temperature in the survey area. Some stock assessments present ecosystem considerations qualitatively through an additional ecosystem considerations section prepared for operational assessments like pollock. And all stock assessments include a risk table that assesses, of the four considerations, environmental/ecosystem considerations that may warrant a reduction in ABC depending on the level of concern and in consideration of additional scientific uncertainty (more information on risk tables is provided in Response to Comment 4). Some stock assessments

also include an ESP, which is a framework for organizing ecosystem and socioeconomic information about an individual stock. The ESP informs environmental and ecosystem considerations, population dynamics, and fisheries performance about that stock and is also integrated into the stock assessment in the risk table. BSAI groundfish stocks with ESPs include: sablefish and Eastern Bering Sea Pacific cod.

The ESRs also provide information on the status of PSC species like salmon, halibut, and crab. The 2024 ESRs included information on salmon in the BS ecosystem and AI ecosystem, including a synthesis of the status of adult and juvenile chum, king, and sockeye salmon; updated information on the abundance of salmon; fish condition and trends; trends in the run size of Bristol Bay sockeye salmon; the increasing abundance and role of eastern Kamchatka pink salmon in the Aleutian Islands; and trends in directed commercial catch of salmon. The 2024 EBS ESR also included an overview of foraging and energetics for halibut, and the 2024 AI ESR evaluated changes in the biomass of fish apex predators, including halibut. The 2024 EBS ESR evaluated trends influencing commercial crab stock biomass (including snow crab).

As a result, the Plan Team and SSC review a robust set of information on the status of target and bycatch species and the marine ecosystems in the BS and AI ecosystems. This information is fully incorporated in the groundfish harvest specifications process such that the setting of OFL and ABC for stocks and stock complexes accounts for the best scientific information available, including on the BS and AI ecosystems. Stock assessments that utilize this information are thoroughly reviewed by the Plan Team and the SSC through a public process.

The TAC setting process is likewise informed by this information, which is the best scientific information available, on the biological condition of the stocks and socioeconomic considerations. The ESRs and ESPs provide relevant information for setting TACs, and information from the ESRs and ESPs is presented and reviewed by the Plan Team, SSC, AP, and Council during the process. In the TAC setting process, the Council reviews the Plan Team and SSC reports. With this information, public comment, and TAC recommendations from the Council's AP, the Council recommends TACs to NMFS. NMFS reviews those recommendations, the Plan Team and SSC reports, the SAFE reports, and other relevant documents.

For specifying TAC, the FMP provides that TAC may be lower than the ABC if warranted on the basis of bycatch considerations, management uncertainty, or socioeconomic considerations, or if required in order to cause the sum of the TACs to fall within the OY range (FMP Section 3.2.3.4). TAC is the annual catch target for a stock or stock complex, derived from the ABC by considering social and economic factors and management uncertainty (*i.e.*, uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amount) (FMP Section 3.2.1; § 600.310(f) and (g)(4)). Regulations at § 679.20(a)(3) provide that the annual determinations for TACs may be adjusted based on the biological condition of groundfish stocks and specific socioeconomic considerations. As explained in Response to Comment 7, NMFS recognizes the harvest specifications, in particular the specification of TAC, affect fishery participants and communities. The harvest specifications are informed by public comment that can be provided at every step through the Council and NMFS process. The Council and NMFS consider these factors from the FMP and regulations and public comment in recommending and implementing TACs.

Consistent with National Standard 1 guidelines in Federal regulations at § 600.310 and the FMP, the TAC cannot exceed ABC and ABC cannot exceed the OFL (§ 600.310(f)(3), (f)(4), and (g)(4)). For all stocks and stock complexes in the BSAI, ABCs do not exceed the OFLs, and TACs do not exceed the ABCs (and therefore annual catch limits (ACLs)). The Magnuson-Stevens Act requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY for each fishery (16 U.S.C. 1851(a)(1)). The OFL is the catch level above which overfishing is occurring; overfishing occurs whenever a stock or stock complex is subjected to a level of fishing mortality or annual total catch that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis (FMP Section 3.2.1). This rule specifies an OFL for each stock and stock complex. NMFS manages fisheries inseason to ensure that TACs are not exceeded. Managing the TAC ensures that the ABC (and therefore ACL) and OFL are not exceeded. Each stock assessment also notes whether overfishing has occurred for that stock or stock complex, and none of the

groundfish of the BSAI are subject to overfishing.

Comment 9: The 2026 and 2027 harvest specification process incorporates ecosystem considerations, is conservative and precautionary, complies with National Standard 2 of the Magnuson-Stevens Act, and is fully transparent. The process promotes stability and predictability in BSAI groundfish fisheries, supporting fishermen, communities, supply chains, and domestic seafood markets.

Response: NMFS acknowledges this comment. For more information on ecosystem considerations see Response to Comments 1 and 8; precaution see Response to Comments 2, 4, and 5; National Standard 2 see Response to Comments 3 and 8; and the transparency of the process see Response to Comments 3 and 8.

Comment 10: Due to the 2025 government shutdown, there was no viable path to produce updated SAFE, and the Council's decision to rely on the most recent available SAFE is consistent with practices of other councils that cannot conduct annual assessments. The SSC found no significant issues with using existing assessments that would risk exceeding ABCs or the 2.0 million ton BSAI groundfish harvest limit, and identified no scientific basis for reducing 2026 ABC or TAC limits below previously specified levels. The commentator supports multi-year groundfish assessment cycles and encourages the Council to pursue longer-term contingency planning for future disruptions to annual assessments.

Response: NMFS acknowledges this comment.

Comment 11: The 2025 BS pollock ICA was not fully used as incidental catch and not reallocated to the AFA sector. The 2026 ICA should be reallocated to directed fisheries if not harvested as incidental catch. Future ICAs should be set at levels reflecting likely catch.

Response: Incidental catch of BS pollock is historically variable and in recent years has been highly variable. Because of this uncertainty, NMFS cannot predict how much ICA will be taken while developing the harvest specifications and takes a precautionary approach by conservatively setting the ICA based on historical years where catch of ICA was higher to prevent reallocating more to the ICA from AFA sectors mid-year, thus disrupting AFA fishing operations. NMFS has authority under § 679.20(a)(5)(i)(A)(1) to reallocate ICA to AFA sectors and vice versa if the Regional Administrator determines that the ICA in the harvest

specifications was set too high or too low. If the BS pollock ICA is not being harvested as incidental catch in 2026, NMFS intends to reallocate likely unharvested fish to the AFA sectors if participants show interest in harvesting this allocation and have the harvesting capacity to catch more fish. NMFS will continue to set ICAs based on the most recent historical years but may reduce the ICA in the future if these recent years show a pattern of lower incidental catch of pollock in non-pollock groundfish fisheries.

Comment 12: NMFS's continued authorization of trawl fisheries unlawfully allows the take of marine mammals listed under the Endangered Species Act (ESA), violating the Marine Mammal Protection Act (MMPA) and constituting arbitrary and capricious agency action. Issuing incidental take permits alone does not demonstrate MMPA compliance; NMFS must ensure recovery plans and take reduction plans are in place or underway and that the fisheries' impacts on affected species or stocks are no more than negligible.

Response: NMFS approves and implements the harvest specifications if they are consistent with the Magnuson-Stevens Act and other applicable law, including the MMPA. NMFS has determined that these final 2026 and 2027 harvest specifications are consistent with the MMPA. The BSAI (and GOA) groundfish fisheries identified as a Category I or II fishery that interact with ESA-listed species have a valid MMPA section 101(a)(5)(E) permit (89 FR 50270, June 13, 2024).

NMFS categorizes all U.S. commercial fisheries under the MMPA List of Fisheries (LOF) according to the levels of marine mammal mortality and serious injury (M/SI). Each fishery is classified through an analysis that assesses the potential cumulative impact of all fisheries, as well as individual fishery impacts, on a marine mammal stock by comparing M/SI levels to the potential biological removal (PBR) for the marine mammal stock. PBR is defined as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (50 CFR 229.2). Category I fisheries have frequent M/SI of marine mammals resulting in annual mortality greater than or equal to 50 percent of PBR. Category II fisheries have a level of M/SI that exceeds 1 percent but is less than 50 percent of the stock's PBR level, if total fishery related mortality is greater than or equal to 10 percent of the PBR. Category III fisheries interact with

marine mammal stocks with annual M/SI less than or equal to one percent of the marine mammal's PBR level and total fishery-related mortality less than 10 percent of PBR. More information on the LOF and fishery categories is available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>.

According to the most recent final LOF, no Alaska groundfish fisheries are Category I (89 FR 12257, February 16, 2024). Three Alaska groundfish fisheries are Category II, and two of these fisheries are BSAI groundfish fisheries: the AK Bering Sea, Aleutian Islands flatfish trawl fishery (the Amendment 80 fishery) and the AK Bering Sea, Aleutian Islands pollock trawl fishery (the pollock trawl fishery). The rest of the Alaska groundfish fisheries are categorized as Category III.

For Category II fisheries that take ESA-listed species, section 101(a)(5)(E) of the MMPA directs that NMFS shall allow taking of ESA-listed marine mammals incidental to commercial fishing operations if NMFS makes a number of determinations regarding negligible impact, recovery plans, and where required take reduction plans, monitoring programs, and vessel registration (16 U.S.C. 1371(a)(5)(E)). In June 2024, NMFS issued a permit for the two BSAI groundfish fisheries that require MMPA permits for the incidental take of ESA-listed species (89 FR 50270, June 13, 2024). Accordingly, both the AK Bering Sea, Aleutian Islands flatfish trawl fishery and the AK Bering Sea, Aleutian Islands pollock trawl fishery have a valid MMPA section 101(a)(5)(E) permit for the incidental, but not intentional, take of ESA-listed species during commercial fishing operations. When issuing the section 101(a)(5)(E) permit, NMFS determined the issuance of that permit complied with the MMPA and implementing regulations regarding the negligible impact determination, recovery plans, take reductions plans, monitoring programs, and vessel registration (89 FR 50270, June 13, 2024). Details on the permit and the analyses that informed NMFS's determinations, as well as NMFS's responses to comments on NMFS's proposed notice of issuance of a permit under the MMPA, are in the **Federal Register** notice announcing NMFS's issuance of the permit at 89 FR 50270, 50276 (June 13, 2024). This **Federal Register** notice is separate from the harvest specifications process and this final rule.

Comment 13: Under the MMPA, NMFS must ensure there are mitigation

measures in place for killer whales and other non-ESA listed marine mammals that interact with the trawl fisheries to prevent unnecessary mortality and serious injury of these animals. NMFS must also revise the Eastern North Pacific Alaska resident stock of killer whales and address information on increasing fisheries interactions with humpback whales.

Response: As noted in Response to Comment 12, NMFS has determined that these final 2026 and 2027 harvest specifications for the BSAI are consistent with the MMPA.

While NMFS remains concerned about the higher number of killer whale incidental catches in the BSAI trawl fisheries in 2023 compared to previous years, industry mitigation efforts have reduced the incidental catches in 2024 and 2025. NMFS continues to investigate and prepare updated analyses on killer whale stocks, including through NMFS's marine mammal stock assessment reports and reports of human-caused mortalities and serious injuries of marine mammals. NMFS also released a technical memorandum, Killer Whale Entanglements in Alaska: Summary Report 1991–2022. More information is available at the following websites: <https://www.fisheries.noaa.gov/feature-story/cause-death-determined-11-killer-whales-incidentally-caught-fishing-gear-alaska-2023> and <https://www.fisheries.noaa.gov/resource/document/killer-whale-entanglements-alaska>.

The commenter alludes to increasing fishery interactions with humpback whales off the U.S. West Coast. There is no evidence of a recent increase in interactions with the groundfish trawl fisheries in the BSAI. The AK Bering Sea, Aleutian Islands flatfish trawl fishery has 100 percent observer coverage for each fishing trip, and there have been no reported or observed M/SI of the Western North Pacific stock of humpback whale in the BSAI flatfish trawl fishery in the most recent stock assessment report. The AK Bering Sea, Aleutian Islands pollock trawl fishery has 100 percent observer coverage, either with a physical observer or through EM. Two humpback whale mortalities (of unknown Distinct Population Segment) were observed in the BSAI pollock trawl fishery between 2016 and 2020. After being prorated for their probability of occurrence, NMFS estimates a mean annual M/SI of 0.008, which remains below 10 percent of the stock's PBR, based on the most recent stock assessment report. The stock assessment reports are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/>

marine-mammal-stock-assessment-reports.

The commenter also asserts that the Eastern North Pacific Alaska resident stock of killer whales consists of two distinct stocks, but changes to the stock definitions of marine mammals managed under the MMPA are outside of the scope of this final rule to implement the 2026 and 2027 groundfish harvest specifications for the BSAI.

Comment 14: NMFS management of the BSAI groundfish trawl fisheries violates the Fur Seal Act (FSA) because it allows unauthorized takes of Northern fur seals. The pollock fishery takes Northern fur seals by disrupting feeding patterns by harvesting significant quantities of the fur seal's main prey in their core feeding areas during their breeding and nursing season. NMFS's continued authorization of the pollock fishery with no mitigation measures or take reduction plan (TRP) in place violates FSA.

Response: NMFS approves and implements the harvest specifications if they are consistent with the Magnuson-Stevens Act and other applicable law, including the FSA. NMFS has determined that these final 2026 and 2027 harvest specifications are consistent with the FSA. At this time, NMFS has concluded that there is not sufficient information to determine if the pollock fishery is disrupting fur seal feeding to an extent that results in take prohibited under the FSA. There is evidence suggesting nutritional limitation could be causing declines in segments (*i.e.*, foraging complexes) of the northern fur seal population; however, there are increasing trends on some foraging complexes on the Pribilof Islands and neither trend is definitively linked to commercial fisheries, particularly the pollock fishery.

We recognize the potential for temporal and spatial competition exists and that understanding these impacts is an ongoing research focus. The commenter's claims of "extensive scientific research" proving the link between the pollock trawl fishery and the fur seal decline overstates the findings of these studies, as most cited studies only suggest potential competition or nutritional limitation, with only one study directly implicating the pollock fishery. The differential trends and habitat relationships of foraging fur seals from the Pribilof Islands emphasizes the importance of continued research and scientific debate on the causes of the northern fur seal trends in abundance, measures of health, and other behavioral attributes

informative to their survival and reproductive success.

Comment 15: Under the Magnuson-Stevens Act, NMFS can approve actions like the harvest specifications only if such actions do not violate other applicable law, like the MMPA, FSA, and NEPA. NMFS has not complied with other applicable law like the MMPA, FSA, and NEPA for the BSAI groundfish harvest specifications.

Response: As addressed in the Classification section (below) and the Response to Comments, NMFS has determined that implementing the 2026 and 2027 groundfish harvest specifications for the BSAI is consistent with the Magnuson-Stevens Act, the FMP, and other applicable law. As explained in Response to Comments 1, 12, 13, and 14, NMFS has determined that this final rule is consistent with the NEPA, MMPA, and FSA.

Changes to the Final Rule

NMFS undertook a thorough review of the relevant comments received during the public comment period. For reasons described in the preceding section, no changes to the final rule were in response to any of the comments received.

This year there are limited changes to TACs between the proposed and final specifications because no updated stock assessments could be prepared due to a disruption in the completion of the stock assessments that were scheduled to be updated in 2025. The AI subarea Pacific cod TAC increased by 519 mt in 2026 and by 519 mt in 2027 from the proposed TAC. This increase corresponds to the decrease in the State GHL. The only reduction was for Alaska plaice, which was reduced from the proposed rule by 518 mt in 2026 and by 518 mt in 2027. This decrease was necessitated by the increase of Pacific cod TACs in order to keep the sum of TACs in the BSAI from exceeding the 2.0 million mt limit. These changes are compared in table A and the section Changes in TACs from the Proposed 2026 and 2027 Harvest Specifications for the BSAI.

The Atka mackerel TAC allocation for the jig sector in the EAI District and BS subarea decreased by 182 mt due to receiving a zero percent allocation in 2026 and 2027. This decrease was necessitated due to the jig sector not utilizing any of its Atka mackerel TAC allocation in recent years, and NMFS does not anticipate harvest by vessels using jig gear in 2026 and 2027. The final TACs, including the limited changes to TACs between the proposed and final harvest specifications, are based on the most recent scientific,

biological, ecosystem, harvest, and socioeconomic information and are consistent with the FMP, regulatory obligations (including the required OY range of 1.4 million to 2.0 million mt), and the harvest strategy from the Final EIS and ROD.

Classification

NMFS is issuing this final rule pursuant to section 305(d) of the Magnuson-Stevens Act. Through previous actions, the FMP and regulations are designed to authorize NMFS to take this action pursuant to section 305(d) (see 50 CFR part 679). The NMFS Assistant Administrator has determined that the final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable law.

Executive Orders (E.O.s) 12866 and 14192

This action is exempt from review under E.O. 12866 because it only implements annual catch limits in the BSAI. This action is exempt from E.O. 14192 because it is exempt from review under E.O. 12866.

Executive Order (E.O.) 13175

This action will not have a substantial direct effect on one or more Alaska Native Tribes, on the relationship between the Federal Government and Alaska Native Tribes, or on the distribution of power and responsibilities between the Federal Government and Alaska Native Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2) is not required and has not been prepared. No formal consultations were requested or held on the BSAI harvest specifications.

National Environmental Policy Act

NMFS prepared a Final EIS for the Alaska groundfish harvest specifications and alternative harvest strategies (see **ADDRESSES**) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the ROD for the Final EIS identifying the selected alternative (Alternative 2). NMFS prepared a SIR for this action to address the need to prepare an SEIS. Copies of the Final EIS, ROD, and annual SIRs (including the 2026 SIR for this action) are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental, social, and economic consequences of alternative harvest strategies on resource

components in the action area. Based on the analysis in the Final EIS, NMFS concluded that the preferred alternative harvest strategy (alternative 2) provides the best balance among relevant environmental, social, and economic considerations and allows for continued management of the groundfish fisheries based on the most recent, best scientific information. Specifically, the preferred alternative harvest strategy (1) prevents overfishing because it is consistent with the ABCs for the target species recommended on the basis of the best scientific information; (2) sets TACs that fall within the BSAI OY range, which is set to reflect ecosystem constraints; (3) works within a broad range of existing and evolving fishery management measures meant to balance harvest for fishing and processing industries and communities and environmental harm and ecosystem impacts, while also facilitating continued harvests of BSAI groundfish; and (4) allows for management of target species within harvest limits that are based on the best scientific information available, including ecosystem information.

The preferred alternative is a harvest strategy in which TACs are set at a level within the range of ABCs recommended through the harvest specifications process. The sum of the TACs also must achieve the OY specified in the FMP and regulations. While the specific numbers that the harvest strategy produces may vary from year to year, the methodology used for the preferred harvest strategy remains constant.

NMFS prepared the 2026 SIR to evaluate whether NMFS should prepare a SEIS for the 2026 and 2027 groundfish harvest specifications. A SEIS should be prepared if a major federal action remains to occur and: (1) the agency makes substantial changes to the proposed action that are relevant to environmental concerns; or (2) there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis. After reviewing the most recent, best available information, including the information contained in the SIR and SAFE report, the Regional Administrator has determined that (1) the 2026 and 2027 harvest specifications, which were set according to the preferred alternative harvest strategy, do not constitute a substantial change in the action; and (2) there are no substantial new circumstances or information about the significance of adverse effects that bear on the analysis in the Final EIS. Any new information and circumstances do not present a seriously different picture of the likely environmental harms of the action to

occur (*i.e.*, the implementation of these harvest specifications) beyond what was considered in the Final EIS such that the 2026 and 2027 harvest specifications will not affect the human environment in a significant manner or to a significant extent not considered in the Final EIS. The 2026 and 2027 harvest specifications will result in environmental, social, and economic impacts within the scope of those analyzed and disclosed in the Final EIS. Therefore, an SEIS is not necessary to implement the 2026 and 2027 harvest specifications.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 604) requires that, when an agency promulgates a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA). The following constitutes the FRFA prepared for these final 2026 and 2027 BSAI harvest specifications.

Section 604 of the RFA describes the required contents of a FRFA: (1) a statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis (IRFA), a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that

affect the impact on small entities was rejected.

A description of this action, its purpose, and its legal basis are contained at the beginning of the preamble to this final rule and are not repeated here.

NMFS published the proposed rule for 2026 and 2027 harvest specifications, apportionments, and PSC limits for the groundfish fisheries of the BSAI on December 16, 2025 (90 FR 58204). NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to accompany the proposed action and included the IRFA in the proposed rule. The comment period closed on January 5, 2026. No comments were received on the IRFA or the economic impacts of this rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

A Description of and an Estimate of the Number of Small Entities

The entities directly regulated by this action are: (1) entities operating vessels with groundfish Federal fishing permits (FFPs) catching FMP groundfish in Federal waters; (2) all entities operating vessels, regardless of whether they hold groundfish FFPs, catching FMP groundfish in the State-waters parallel fisheries; and (3) all entities operating vessels fishing for halibut that have incidental catch of FMP groundfish (whether or not they have FFPs). These include entities operating CVs and CPs within the action area and entities receiving direct allocations of groundfish.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of \$11 million for all its affiliated operations worldwide. NMFS formally reviewed this size standard determination in 2025 and has issued a Notice of Determination that after review consistent with NMFS's small business size standards regulations, the SBA's review requirements under the Small Business Jobs Act of 2010, the SBA's regulations establishing size standards, and SBA's size standards methodology, the NMFS-established and codified single small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry continues

to reflect the size distribution of all businesses in the commercial fishing industry and is appropriate for continued use for RFA purposes only (90 FR 52917, November 24, 2025). Therefore, no revision to the standard is warranted at this time.

Using the most recent year of data (2024), there were 92 individual CVs and 1 C/P with gross revenues less than or equal to \$11 million. The six CDQ groups are also considered small entities. This represents the potential suite of directly regulated small entities. The determination of entity size is based on vessel revenues and affiliated group revenues. This determination also includes an assessment of fisheries cooperative affiliations, although actual vessel ownership affiliations have not been completely established. However, the estimate of these 93 vessels may be an overstatement of the number of small entities because of the complexity of analyzing the links and affiliations across these vessels, particularly since many of them conduct operations in both Federal and State fisheries. This group of vessels had average gross revenues that varied by gear type. Average gross revenues for hook-and-line CVs, pot gear CVs, and trawl gear CVs are estimated to be \$0.73 million, \$1.47 million, and \$3.39 million, respectively. Average gross revenues for C/P entities are confidential. There are 3 AFA cooperative affiliated motherships that appear to fall under the 750 worker threshold and are therefore small entities. The average gross revenues for the AFA motherships are confidential because all three members are in a cooperative and have operated two of their three vessels in recent years.

Recordkeeping, Reporting, and Other Compliance Requirements and Relevant Federal Rules That May Duplicate, Overlap, or Conflict With This Rule

This action does not impose recordkeeping and reporting requirements. This action sets TAC and groundfish PSC limits that NMFS utilizes for the management of the groundfish fishery in the BSAI. If a TAC or PSC limit has been or will be reached, NMFS can take action to prevent exceeding the specified limit. Entities operating in the BSAI must follow any inseason actions NMFS issues. The specific compliance requirements for entities operating in the BSAI are set by regulations that are separate from this action. This action does not duplicate, overlap, or conflict with any Federal rules.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

This action implements the final 2026 and 2027 harvest specifications, apportionments, and PSC limits for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits for groundfish during the 2026 and 2027 fishing years and is taken in accordance with the FMP implemented by NMFS and recommended by the Council pursuant to the Magnuson-Stevens Act. The establishment of the final harvest specifications is governed by NMFS's harvest strategy, in consultation with the Council, for the catch of groundfish in the BSAI. The harvest strategy was selected previously from among five alternatives as described in the Final EIS, with the preferred alternative harvest strategy being one in which the TACs fall within the range of ABCs recommended through the harvest specifications process. The sum of the TACs must be within the OY range specified in the FMP and regulations. Under this preferred alternative harvest strategy, TACs are set to a level that falls within the range of ABCs recommended by the SSC and the sum of the TACs achieve the OY specified in the FMP and regulations. While the specific TAC numbers that the harvest strategy produces may vary from year to year, the methodology used for the preferred harvest strategy remains constant.

The final 2026 and 2027 TACs associated with preferred harvest strategy are those recommended by the Council in December 2025. Final OFLs and ABCs are based on recommendations prepared by the Plan Team and SSC in 2024 for final 2025 and 2026 OFLs and ABCs. The final OFLs and ABCs for 2026 are unchanged from these previously reviewed 2025 and 2026 final amounts, and the 2027 amounts were set equal to 2026 amounts and will be superseded in the final 2027 and 2028 harvest specifications. The 2026 and 2027 OFLs and ABCs were reviewed by the Plan Team in September 2025 and were reviewed and recommended by the SSC in October and December 2025. The Council based its TAC recommendations on those of its AP, and those recommendations are consistent with the SSC's recommendations for final 2026 and 2027 OFLs and ABCs. The sum of all TACs remains within the OY for the BSAI consistent with § 679.20(a)(1)(i)(A). Because setting all TACs equal to ABCs would cause the sum of TACs to exceed the maximum OY of 2.0 million mt, TACs for some

stocks and stock complexes are lower than the ABCs recommended by the Plan Team and the SSC.

The final 2026 and 2027 OFLs and ABCs are based on the best available biological information from the 2024 SAFE report, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods to calculate stock biomass. The final 2026 and 2027 TACs are based on the best available biological and socioeconomic information. The final 2026 and 2027 OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2024 SAFE report, which is the most recent, completed SAFE report, as well as the ecosystem and socioeconomic information presented in the 2024 SAFE report (including the BS and AI ESRs and any ESPs). Accounting for the most recent information to set the final OFLs, ABCs, and TACs is consistent with the objectives for this action, as well as National Standard 2 of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(2); § 600.315), which states that actions shall be based on the best scientific information available. The SAFE report also includes information on the economic condition of the groundfish fisheries off Alaska through the Economic SAFE report. Data are available through 2024.

Under this action, the final ABCs reflect harvest amounts that are less than the specified OFLs. The final TACs are within the range of final ABCs recommended by the SSC and do not exceed the biological limits recommended by the SSC (the ABCs and OFLs). Specifying TACs that do not exceed ABCs and ABCs that do not exceed OFLs is consistent with the objectives for this action, the FMP, and National Standard 1 of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(1)) and implementing regulations (§ 600.310). NMFS sets, and the Council recommended, final TACs equal to final ABCs, which is intended to maximize harvest opportunities in the BSAI, unless other conservation or management reasons support setting TAC amounts less than the ABCs. Although under the FMP and regulations, NMFS could specify TACs equal to ABCs, NMFS cannot set TACs for all species in the BSAI equal to their ABCs due to the constraining OY limit in the BSAI of 2.0 million mt. For this reason, some final TACs are less than the final ABCs. These specific reductions were reviewed and recommended by the Council's AP, and then reviewed and adopted by the

Council as the Council's recommended final 2026 and 2027 TACs.

Based upon the best available scientific data, and in consideration of the objectives of this action, there are no significant alternatives to the final rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the final rule on small entities. This action is economically beneficial to entities operating in the BSAI, including small entities. The action specifies TACs for commercially valuable species in the BSAI and allows for the continued prosecution of the fishery, thereby creating the opportunity for fishery revenue. After public process, during which the Council and NMFS solicited input from stakeholders, the Council concluded and NMFS likewise determines that these final harvest specifications would best accomplish the stated objectives articulated in the preamble for this final rule and in applicable statutes and would minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Paperwork Reduction Act

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

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d)(1) and (d)(3), the 30-day delay in effective date requirement does not apply to this rule because the immediate implementation of this rule will relieve a restriction on fishery participants and NMFS finds there is good cause for the measures to take effect on March 18, 2026. The Plan Team and the SSC recommended the OFL and ABC for each stock and stock complex based on the 2024 SAFE report. The Council recommended TACs set less than or equal to the ABC for each stock or stock complex in December 2025. Accordingly, NMFS's review of the final 2026 and 2027 harvest specifications could not begin until after the December 2025 Council meeting and after the public had time to comment on the proposed rule.

The 2026 harvest specifications expire on March 18, 2026. This action is necessary to timely establish harvest specifications for the remainder of the 2026 fishing year and for the start of the 2027 fishing year. If these final specifications are not effective by March 18, 2026, then the BSAI groundfish fisheries will be closed until new

harvest specifications are published and effective. Any delay in effectiveness would cause a lapse in fishing and substantial harm to the fishing industry, including vessel owners, captain and crew, processing facilities, and fishing communities. Therefore, the 30-day delay is not required pursuant to 5 U.S.C. 553(d)(1).

Pursuant to 5 U.S.C. 553(d)(3), there is sufficient good cause to establish that a 30-day delay is not required. If these final harvest specifications are not effective by the start of the 2026 Pacific halibut season as specified by the IPHC, the fixed gear sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from the unnecessary discard of sablefish that are caught along with Pacific halibut, as both fixed gear sablefish and Pacific halibut are managed under the same IFQ program. This action is necessary to allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season.

Finally, having this rule be effective on March 18, 2026 provides the fishing industry with the earliest possible opportunity to plan and conduct its fishing operations with respect to TACs. Changes from the proposed to final 2026 and 2027 TACs in the BSAI as discussed in the preamble of this action include an increase in the final AI Pacific cod TAC than the proposed TAC for 2026 and 2027 and a decrease in the final Alaska plaice TAC than the proposed TAC for 2026 and 2027. The changes to TACs between the proposed and final harvest specifications are based on the most recent scientific, biological, and socioeconomic information and are consistent with the FMP, regulatory obligations, and the harvest strategy from the Final EIS and ROD as described in the proposed and final harvest specifications, including the required OY range of 1.4 million to 2.0 million mt. Therefore, in accordance with 5 U.S.C. 553(d)(3), NMFS has

demonstrated good cause to show that the 30-day delay requirement does not apply to this rule.

Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA)

A formal section 7 consultation under the ESA was reinitiated for the BSAI groundfish fisheries, and a biological opinion is being prepared. The BSAI groundfish fisheries continue to operate under terms and conditions implemented in prior biological opinions.

Adverse impacts on marine mammals resulting from fishing activities conducted under this action are discussed in the Final EIS. Through a separate action, NMFS has issued a valid MMPA section 101(a)(5)(E) permit for the incidental, but not intentional, take of ESA-listed species during commercial fishing operations for the two BSAI groundfish fisheries identified as a Category II fishery that interact with ESA-listed species (89 FR 50270, June 13, 2024).

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules.

The tables contained in this final rule are provided online and serve as the plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule’s primary purpose is to announce the final 2026 and 2027 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest

limits and associated management measures for groundfish during the 2026 and 2027 fishing years and to accomplish the goals and objectives of the FMP. It is taken in accordance with the FMP, the Magnuson-Stevens Act, and regulations at 50 CFR parts 600, 679, and 680. This action affects all fishermen who participate in the BSAI fisheries. The specific OFL, ABC, TAC, and PSC amounts are provided in tables in this final rule to assist the reader. Affected fishery participants are advised to review this final rule, including its tables.

Information to assist small entities in complying with this final rule is provided online. The OFL, ABC, TAC, and PSC tables are individually available online at: <https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-harvest-specifications>. Explanatory information on the relevant regulations supporting the harvest specifications is also found in footnotes to the tables. Harvest specification changes are also available from the same online source, which includes applicable **Federal Register** notices, information bulletins, and other supporting materials. NMFS will announce closures and openings of directed fishing and other inseason adjustments in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishery participants should keep themselves informed of such actions. Copies of the tables and/or this final rule are also available upon request.

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: March 6, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2026–04684 Filed 3–9–26; 8:45 am]

BILLING CODE 3510–22–P



FEDERAL REGISTER

Vol. 91

Tuesday,

No. 46

March 10, 2026

Part IV

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources and Emission
Guidelines for Existing Sources: Large Municipal Waste Combustors
Voluntary Remand Response and Five-Year Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2017-0183; FRL-5120-04-OAR]

RIN 2060-AO18

Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Voluntary Remand Response and Five-Year Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing new source performance standards (NSPS) and emission guidelines (EG) for the large municipal waste combustion (MWC) source category. This final rule responds to a voluntary remand of the preceding rule for this source category and announces the results of the non-discretionary review at five-year intervals required by Clean Air Act (CAA) section 129(a)(5), fulfilling the requirements of a consent decree for the source category. The final rule revises the remanded emission limits for cadmium, lead, particulate matter, polychlorinated dibenzodioxins and dibenzofurans, mercury, hydrogen chloride, and sulfur dioxide for all sources subject to the NSPS and EG and the remanded emission limits for nitrogen oxides and carbon monoxide for some sources subject to the EG and all sources subject to the NSPS. This final rule also removes certain startup, shutdown, and malfunction (SSM) exclusions and exemptions. In addition, the EPA is taking this opportunity to streamline regulatory language; revise recordkeeping and reporting requirements; establish electronic notification; reestablish new and existing source applicability dates; eliminate title V requirements for air curtain incinerators that burn only wood waste, yard waste, and clean lumber; close a 2007 proposed reconsideration action; and make certain typographical and technical corrections and clarifications. The EPA estimates this final rule will result in 3,269 tpy reduction in regulated pollutants from existing sources through implementation of the final emission limits.

DATES: This final rule is effective on May 11, 2026. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the

Director of the **Federal Register** as of May 11, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2017-0183. All documents in the docket are listed at <https://www.regulations.gov>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The EPA does not place certain other material, such as copyrighted material, on the internet; this material is publicly available only as Portable Document Format (PDF) versions accessible only on the EPA computers in the docket office reading room. The public cannot download certain databases and physical items from the docket but may request these items by contacting the docket office at 202-566-1744. The docket office has 10 business days to respond to such requests. With the exception of such material, publicly available docket materials are available electronically at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For information about this final rule, contact Ms. Noel Cope, Natural Resources Division, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2128; and email address: Cope.Noel@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this notice the use of “we,” “us,” or “our” refers 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:

ANSI American National Standards Institute
APCD air pollution control device
ASME American Society of Mechanical Engineers
ASNCR advanced selective noncatalytic reduction
ATSDR Agency for Toxic Substances and Disease Registry
BSER Best system of emission reduction
CAA Clean Air Act
CBI Confidential Business Information
Cd cadmium
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emissions monitoring system
CFBS circulating fluidized bed scrubber
CFR Code of Federal Regulations
CISWI Commercial and Industrial Solid Waste Units
CO carbon monoxide
CRA Congressional Review Act

DCOT digital camera opacity technique
Dscm dry standard cubic meter
EAV equivalent annualized value
EG emission guidelines
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HCl hydrogen chloride
Hg mercury
HMIWI hospital, medical, and infectious waste incinerators
ICR Information Collection Request
LNTM Low NO_x
LPL lower predictive limit
MACT maximum achievable control technology
MB/RC mass burn rotary combustor
MB/WW mass burn water wall
mg milligram
MSW municipal solid waste
MWC municipal waste combustor
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
ng nanogram
NO_x oxides of nitrogen (nitrogen oxides)
NRDC Natural Resources Defense Council
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
O₃ Ozone
OCAP Office of Clean Air Programs
OTR Ozone Transport Region
OMB Office of Management and Budget
Pb lead
PCDD/PCDF polychlorinated dibenzodioxins and dibenzofurans (dioxins/furans)
PDF portable document format
PM particulate matter
ppm parts per million
ppmvd parts per million by volume, dry basis
PRA Paperwork Reduction Act
PV present value
QRO Certification for Municipal Solid Waste Combustion Facilities Operator
RATA relative accuracy test audit
RDL representative detection level
RDF/FBC refuse-derived fuel fluidized bed combustor
RDF/S refuse-derived fuel stoker combustor
RDF/SS refuse-derived fuel semi-suspension or spreader stoker wet process conversion combustor
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
SCR selective catalytic reduction
SNCR selective noncatalytic reduction
SO₂ sulfur dioxide
SSM startup, shutdown, and malfunction
tpd tons per day
tpy tons per year
µg microgram
UMRA Unfunded Mandates Reform Act of 1995
UPL upper prediction limit
VCS voluntary consensus standards
WTEA Waste to Energy Association
XML Extensible Markup Language

Table of Contents

- I. General Information
 - A. Executive Summary
 - B. Does this action apply to me?

- C. Where can I get a copy of this document and other related information?
- D. Judicial Review and Administrative Reconsideration
- II. Background
 - A. What is the statutory authority for this action?
 - B. What is the regulatory background for the large MWC source category, and how do the NSPS and EG regulate emissions from the source category?
 - C. What changes did we propose for the large MWC source category in our January 23, 2024, proposal?
 - D. What outreach did we conduct following the proposal?
- III. What is included in these final rules?
 - A. What are the final rule amendments based on the five-year review and response to the voluntary MACT floor remand for the large MWC source category?
 - B. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?
 - C. What are the final rule amendments addressing other changes to the large MWC EG and NSPS?
 - D. What are the effective and compliance dates of the standards?
 - E. Severability
- IV. What is the rationale for our final decisions and amendments for the large MWC source category?
 - A. Five-Year Review and Response to the Voluntary MACT Floor Remand for the Large MWC Source Category
 - B. Startup, Shutdown, and Malfunction
 - C. Other Changes to the Large MWC EG and NSPS
- V. Summary of Cost, Environmental, Economic Impacts, and Additional Analyses Conducted
 - A. What are the affected facilities?
 - B. What are the air quality impacts?
 - C. What are the cost impacts?
 - D. What are the economic impacts?
 - E. What are the benefits?
 - F. What analysis of children's environmental health did we conduct?
- VI. Statutory and Executive Order Reviews and 1 CFR Part 51
 - 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 (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. Executive Summary

In December 1995, the EPA adopted emissions guidelines (EG) (40 CFR part 60, subpart Cb) and new source performance standards (NSPS) (40 CFR part 60, subpart Eb) for large municipal waste combustors (MWC), which have a combustion capacity of greater than 250 tons per day (tpd) of municipal solid waste (MSW), pursuant to Clean Air Act (CAA) section 129.¹ CAA section 129(a)(5) requires review of these standards at 5-year intervals and, in 2006, the EPA promulgated amendments to the 1995 standards, revising the emission limits and compliance testing provisions to reflect the actual performance achieved by existing MWCs and improvements in CEMS data performance and reliability.²

Following promulgation of the 2006 rulemaking, environmental groups filed a petition for review in the D.C. Circuit challenging the rulemaking. The petitioners challenged the emission limits which the EPA promulgated in 1995. In light of then-recent precedents casting doubt on the soundness of emission limits derived in part from state-issued air permits as the 1995 emission limits for large MWCs were, the EPA sought a voluntary remand of the 2006 rule.³ In its remand motion, the EPA announced its intention to

¹ Note that on February 11, 1991, Subpart Ea was promulgated that applies Standards of Performance to MWCs which commenced construction after December 20, 1989, and on or before September 20, 1994.

² 71 FR 27324 (May 10, 2006).

³ Specifically, the petitioners pointed to a 2004 decision from the D.C. Circuit, which remanded MACT floors established for existing small MWCs derived from state-issued permit limits because the Court found the EPA did not fulfill the requirement of CAA section 129(a)(2) in setting the floors. See *Northeast Maryland Waste Disposal Authority v. EPA*, 358 F.3d 936 (D.C. Cir. 2004). Additionally, the EPA noted in its motion for a voluntary remand that since the time the EPA finalized the 2006 rulemaking, the D.C. Circuit issued three decisions that were relevant to rules promulgated under sections 112 and 129 of the CAA, since the floor setting requirements in section 129 are essentially equivalent to those under section 112. See *Sierra Club v. EPA*, 479 F.3d 875 (D.C. Cir. Mar. 13, 2007) (vacating the EPA's regulations setting national emission standards for brick and clay ceramics kilns under Section 112); *Natural Resources Defense Council v. EPA*, 489 F.3d 1250 (D.C. Cir. June 8, 2007) (vacating the EPA's regulations setting national emission standards under section 112 for hazardous air pollutants from industrial, commercial, and institutional boilers and process heaters and the EPA's regulations under section 129 defining the term "commercial and industrial solid waste incineration unit"); *Natural Resources Defense Council v. EPA*, 489 F.3d 1364 (D.C. Cir. June 19, 2007) (vacating portions of an EPA rule promulgated under CAA section 112 regulating hazardous air pollutants from the manufacture of plywood and composite wood products).

grant the environmental groups' administrative petition to revisit the 1995 emission limits and reevaluate the 2006 rule as necessary to comport with any revisions. The D.C. Circuit issued an order granting the EPA's request for a remand in 2008, which directed the EPA to review its 2006 rulemaking.⁴

In 2024, the EPA proposed to revise the NSPS and EG under CAA section 129 for large MWCs by amending existing standards for the large MWC source category.⁵ The Agency sought comment on additional data, including data on the number of facilities that would require retrofit to meet any emission limits and data to inform the EPA's projections of air pollution control device (ACPD) use by large MWCs. In addition, the EPA sought comment on developments in practices, processes, and control technologies that reduce pollutant emissions.

In 2025, the Agency reopened the comment period for an additional four months to gather additional information on the proposed amendments to the large MWC regulations.⁶ Specifically, the EPA sought additional information and documentation on verifiable historic pollutant emission concentration information (e.g., stack test reports, waste characterization reports and continuous emission monitor records) for large MWCs so that we could further assess the proposed maximum achievable control technology ("MACT") requirements, including operation of the control technologies over time.

In this final rule, the EPA is revising the remanded emission limits for cadmium, lead, particulate matter, polychlorinated dibenzodioxins and dibenzofurans, mercury, hydrogen chloride, and sulfur dioxide for all sources subject to the NSPS and EG and the remanded emission limits for nitrogen oxides and carbon monoxide for some sources subject to the EG and all sources subject to the NSPS. The EPA is also finalizing the following amendments: removal of SSM exclusions and exemptions; streamlined regulatory language; revisions to recordkeeping and reporting requirements; addition of electronic reporting requirements; reestablishment of new and existing source applicability dates; elimination of title V requirements for air curtain incinerators that burn only wood waste, yard waste, and clean lumber and are not located at a major source or subject to title V for

⁴ Order, *Sierra Club v. EPA*, No. 06–1250 (D.C. Cir. filed Feb. 15, 2008).

⁵ 89 FR 4243 (Jan. 23, 2024).

⁶ 90 FR 4708 (Jan. 8, 2025).

other reasons; closing the 2007 proposed reconsideration action; and other technical, typographical, and clarifying corrections to certain provisions in the NSPS and EG.

Following consideration of comments and additional information received on the proposed rule and the reopened comment period, the EPA is revising its reassessment of the MACT floor limits for the EG and NSPS. The EPA is finalizing an approach similar to that in the proposed rule, using separate methodologies for pollutants with stack test data (Cd, Pb, Hg, PM, HCl, and

PCDD/PCDF) and pollutants with CEMS data (or CEMS pollutants) (CO, NO_x, and SO₂). The final limits incorporate new data submitted during the reopened comment period for years 1990 to 1995 in addition to the 2000 to 2009 compliance dataset that the EPA used for the proposed limits.

The EPA estimates that this final rule will result in present value costs of \$330 million at a three percent discount rate and \$210 million at a seven percent discount rate over the 2030 to 2049 time frame, with equivalent annualized values of \$25 and \$28 million per year,

respectively (in 2024 dollars, discounted to 2025).

B. Does this action apply to me?

Regulated entities. This final action applies to large MWCs that combust more than 250 tons per day (tpd) of municipal solid waste (MSW) as defined under CAA section 129(a)(1)(B), to be regulated under title 40 of the Code of Federal Regulations (CFR) part 60, new subparts VVVV and WWWW. Table 1 of this preamble presents categories and entities that this action potentially regulates.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Category	NAICS * code
Solid Waste Combustors and Incinerators	562213
Administration of Air and Water Resource and Solid Waste Management Programs	924110

The EPA does not intend Table 1 of this preamble to be exhaustive but rather to provide a guide for readers regarding entities that this final action likely affects. To determine whether this action affects your facility, you should examine the applicability criteria found in title 40 of the Code of Federal Regulations (CFR), 40 CFR 60.5690 of subpart VVVV and 40 CFR 60.6300 of subpart WWWW. If you have questions regarding the applicability of any aspect of the final subparts to a particular entity, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. Where can I get a copy of this document and other related information?

In addition to the docket, an electronic copy of this final action will be available on the internet. In accordance with 5 U.S. Code (U.S.C.) 553(b)(4), a brief summary of this rule may be found at <https://www.regulations.gov>, Docket ID No. EPA-HQ-OAR-2017-0183. Following signature by the Administrator, the EPA will post a copy of this final action at <https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

D. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in

the U.S. Court of Appeals for the D.C. Circuit (“D.C. Circuit”) by May 11, 2026. CAA section 307(b)(2) prohibits a party from challenging this final action separately in any civil or criminal proceedings for enforcement.

CAA section 307(d)(7)(B) further provides that only an objection to a rule or procedure that was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also requires the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT SECTION** and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

CAA section 129 provides the statutory authority for this action. CAA

section 129(a)(1) requires the EPA to establish NSPS and EG pursuant to CAA sections 111 and 129 for new and existing solid waste incineration units, including “incineration units with capacity greater than 250 tons per day combusting municipal waste.”⁷ This final rule includes a reevaluation of the first-stage technology-based standards established in 1995 pursuant to CAA section 129(a)(2) in response to a voluntary remand by the D.C. Circuit. In addition, this action includes a review of the reevaluated standards pursuant to CAA section 129(a)(5), which requires that the EPA, at five-year intervals review and, “in accordance with [section 129 and section 111],”⁸ revise the standards and the requirements promulgated for a category solid waste incineration units, including large MWC units.

CAA section 129(a)(2) provides that standards “applicable to solid waste incineration units promulgated under [section 111] and this section shall reflect the maximum degree of reduction in emissions of [certain listed air pollutants] that the Administrator, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new and existing units in each category.”⁹ This level of control is referred to as a maximum achievable control technology (MACT) standard. CAA section 129(a)(4) further directs the EPA to set numeric emission limits for certain pollutants: cadmium (Cd),

⁷ 42 U.S.C. 7429(a)(1)(A)–(B).

⁸ *Id.* 7429(a)(5).

⁹ *Id.* 7429(a)(2).

mercury (Hg), lead (Pb), particulate matter (PM), hydrogen chloride (HCl), sulfur dioxide (SO₂), polychlorinated dibenzodioxins and dibenzofurans (PCDD/PCDF), carbon monoxide (CO), and oxides of nitrogen (NO_x).¹⁰ In addition, the standards “shall be based on methods and technologies for removal or destruction of pollutants” before, during, and after combustion according to CAA section 129(a)(3).¹¹ The EPA has discretion to distinguish among classes, types, and sizes of incinerator units within a category when setting standards.¹²

In promulgating a MACT standard, the EPA must calculate the minimum stringency levels for new and existing solid waste incineration units in a category based on levels of emissions control achieved in practice by the subject units. The minimum level of stringency is called the MACT floor. Different approaches exist for determining the MACT floors for new and existing sources. For new, modified, and reconstructed sources, CAA section 129(a)(2) provides that the “degree of reduction in emissions that is deemed achievable . . . shall not be less stringent than the emissions control that is achieved in practice by the best controlled similar unit, as determined by the Administrator.”¹³ Emissions standards for existing units may be less stringent than standards for new units, provided that the standards “shall not be less stringent than the average emissions limitation achieved by the best performing 12 percent of units in the category.”¹⁴ The MACT floors are the minimum standards that the EPA may consider for a source category. As a part of the “beyond-the-floor” evaluation, however, the EPA may consider standards more stringent than the MACT floor, taking into account the costs, non-air quality health and environmental impacts, and energy requirements of the more stringent controls.

The MACT analysis involves assessing emissions from the best performing units in a source category. The EPA can base this assessment on actual emissions data and other information, such as State regulatory requirements, that enable the EPA to estimate the performance of the regulated units. For each source category, the assessment involves a review of available emissions data and information with an appropriate

accounting for emissions variability. The EPA can use other methods of estimating emissions, provided that the methods can be shown to provide reasonable estimates of the actual emissions performance of a source or sources in practice. Where there is more than one method or technology to control emissions, the analysis may result in several potential regulatory options, one of which the EPA selects as the MACT for each pollutant. Each regulatory option must be at least as stringent as the minimum-stringency floor requirements. The EPA also examines, but is not required to adopt, more stringent beyond-the-floor regulatory options to select the MACT. Based on the EPA’s consideration of the factors outlined in CAA section 129(a)(2), including the costs, any non-air quality health and environmental impacts, and energy requirements, the EPA selects either the MACT floor level of control or a beyond-the-floor level of control as the MACT standard.

CAA section 129(a)(5) requires the EPA to review the NSPS and EG at five-year intervals and, in accordance with CAA sections 129 and 111, revise the NSPS and EG.¹⁵ CAA section 111 contains a similar periodic “review and revise” provision. Specifically, CAA section 111(b)(1)(B) requires that the EPA, except in specified circumstances, review NSPS promulgated under CAA section 111 every eight years and revise the standards if the EPA determines that it is “appropriate” to do so.¹⁶ In light of the explicit reference in CAA section 129(a)(5) to CAA section 111, which directs the EPA to review and revise standards previously promulgated only “if appropriate,” the EPA interprets CAA section 129(a)(5) to likewise require that the EPA review and, if appropriate, revise CAA section 129 standards.

CAA section 129 provides guidance on the criteria relevant to determining whether revising a CAA section 129 standard is “appropriate.” Specifically, CAA section 129(a)(3) states that standards for solid waste incineration units under CAA sections 111 and 129 “shall be based on methods and technologies for removal or destruction of pollutants before, during and after combustion.”¹⁷ This section’s reference to methods and “technologies” supports the inference that the EPA should consider advances in technology, both in terms of effectiveness and costs, as well as the availability of new technologies when determining whether

revising a CAA section 129 standard is “appropriate.” This is the same general approach that the EPA takes in periodically reviewing NSPS promulgated under CAA section 111(b)(1)(B).

CAA section 111(b)(1)(B) directs the EPA to “review and, if appropriate, revise [section 111 NSPS] following the procedure required by this subsection for promulgation of such standards.”¹⁸ Such standards, as defined in section 111(a)(1), are based on “the best system of emission reduction” or BSER, “which (taking into account the cost of achieving such reduction, and any non-air quality and health and environmental impacts and energy requirements) the Administrator determines has been adequately demonstrated.” Because the BSER is generally based on the degree of emission limitation achievable by some type of control technology, in reviewing section 111 NSPS, the EPA evaluates advances in existing control technologies, both in terms of performance and cost, as well as the availability of new technologies. Based on this evaluation, the EPA then determines whether it is appropriate to revise the standard. Similarly, in conducting CAA section 129(a)(5) reviews, the EPA assesses the performance and variability associated with control measures affecting emissions performance at sources in the subject source category (including the installed emissions control equipment), along with developments in practices, processes and control technologies. In addition, associated costs of control technologies are assessed to determine whether it is appropriate to revise the NSPS and EG.

The EPA does not interpret CAA section 129(a)(5), together with CAA section 111, as requiring the Agency to recalculate MACT floors in connection with this periodic review.¹⁹ CAA section 129(a)(5) does not state that the EPA must conduct a MACT floor analysis every five years when reviewing standards promulgated under CAA sections 129 and 111. Had Congress intended the EPA to conduct a new MACT floor analysis every five years, Congress could have said so expressly, either by directly incorporating such a requirement into CAA section 129(a)(5) or by referring to CAA section 129(a)(2) specifically rather than broadly to “this section” (*i.e.*, CAA

¹⁰ *Id.* 7429(a)(4).

¹¹ *Id.* 7429(a)(3).

¹² *Id.* 7429(a)(2).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* 7429(a)(5).

¹⁶ *Id.* 7411(b)(1)(B).

¹⁷ *Id.* 7429(a)(3).

¹⁸ *Id.* 7411(b)(1)(B).

¹⁹ 71 FR 27324, 27327–28 (May 10, 2006); 73 FR 72962, 72971–72 (Dec. 1, 2008); 76 FR 15704, 15708 (Mar. 21, 2011); 85 FR 54178, 54182 (Aug. 31, 2020).

section 129)²⁰ and CAA section 111. Moreover, reading CAA section 129(a)(5) to require the EPA to recalculate MACT floors would be inconsistent with Congress' direction that the EPA should revise CAA section 129 standards in accordance with CAA section 111, which provides that such revision should occur only if the EPA determines that it is "appropriate" to do so. This approach would effectively read the reference to CAA section 111 out of CAA section 129(a)(5). Requiring the EPA to recalculate MACT floors would eviscerate the EPA's ability to base revisions to CAA section 129 standards on a determination that it is "appropriate" to revise such standards, as the EPA's only discretion would be in deciding whether to establish a standard that is more stringent than the recalculated floor. The EPA believes that depriving the Agency of any meaningful discretion in this manner is at odds with what Congress intended.

The EPA believes that CAA section 129(a)(5) is best read as conferring discretion to revise as "appropriate" taking into consideration all relevant factors.²¹ The D.C. Circuit's ruling regarding periodic review of hazardous air pollutant (HAP) standards under CAA section 112(d)(6) supports this view.²² Like CAA section 129(a)(2), CAA section 112(d)(2) requires that the initial HAP standards not be less stringent than the MACT floor, and CAA section 112(d)(6) requires that the EPA "review, and revise as necessary" the HAP standards every eight years. The D.C. Circuit has repeatedly rejected arguments that CAA section 112(d)(6) imposes a duty to recalculate the MACT floor²³ and held that the EPA may take

into account factors other than the "non-exhaustive list of considerations" in section 112(d)(6) when deciding whether revision to existing standards is "necessary."²⁴ The Court's rulings on section 112(d)(6) are consistent with our interpretation of sections 129(a)(5) and 111 as providing the EPA discretion to revise, "as appropriate," MACT standards established under sections 129(a)(2) and 111.

For these reasons, the EPA does not recalculate the MACT floor in a section 129(a)(5) review. Rather, as directed by section 129(a)(5), the EPA follows the guidance in sections 111 and 129 and assesses advances in existing control technologies, both in terms of performance and cost, as well as the availability of new technologies, and then, on the basis of this evaluation, the EPA determines whether it is appropriate to revise the NSPS and EG.

B. What is the regulatory background for the large MWC source category, and how do the NSPS and EG regulate emissions from the source category?

In December 1995, the EPA promulgated EG and NSPS for large MWC units pursuant to CAA section 129.²⁵ As stated in section II.A of this preamble, these standards apply to large MWC units that have a combustion capacity greater than 250 tpd of MSW.²⁶ Both the EG and NSPS require compliance with emission limitations that reflect the maximum degree of emissions reductions for specific pollutants (Cd, CO, PCDD/PCDF, HCl, Pb, Hg, NO_x, PM, and SO₂). The 1995 NSPS apply to new large MWC units that commenced construction, were modified, or were reconstructed after September 20, 1994. The 1995 EG apply to existing large MWC units that commenced construction on or before September 20, 1994. The 1995 EG required that owners or operators of affected sources complete emission control retrofits by December 2000. The EPA calculated the impact of floors based, in part, on State issued air permits. These timely completed retrofits at existing large MWC units were highly effective in reducing emissions of most CAA section 129 pollutants from these units. Compared to a 1990 baseline of emissions, the

for *Surface Finishing v. EPA*, 795 F.3d 1, 8, 11 (D.C. Cir. 2015).

²⁴ *La. Envtl. Action Network (LEAN) v. EPA*, 955 F.3d 1088, 1097 (D.C. Cir. 2020).

²⁵ 40 CFR part 60, subpart Cb (EG); 40 CFR part 60, subpart Eb (NSPS).

²⁶ In 1991, the EPA promulgated 40 CFR part 60, subpart Ea, applying standards of performance to MWCs that commenced construction after December 20, 1989, and on or before September 20, 1994. 56 FR 5507 (Feb. 11, 1991).

1995 EG reduced organic emissions (PCDD/PCDF) by more than 99 percent, metal emissions (Cd, Pb, and Hg) by more than 93 percent, and acid gas emissions (HCl and SO₂) by more than 91 percent.²⁷ While the 1995 EG and NSPS also regulate NO_x, the emissions reductions for NO_x were relatively modest compared to those of the other CAA section 129 pollutants.²⁸

In 2006, the EPA promulgated amendments to the 1995 standards after completing a periodic review under CAA section 129(a)(5). The EPA increased the stringency of the Cd and Hg NSPS emission limits based on new compliance test data showing that large MWC units operating with a full set of controls could comply with more stringent limits; similar data were not available when the EPA previously set the NSPS emission limits. The EPA also revised the PCDD/PCDF, Hg, and NO_x EG emission limits and compliance testing provisions to more accurately reflect the actual performance achieved by existing MWCs and their control technologies and to reflect improvements in continuous emissions monitoring system (CEMS) data performance and reliability based on large MWC compliance test data.²⁹ The EPA projected that all large MWCs could meet the 2006 EG emission limits without installing any new control technology.³⁰

Following promulgation of the 2006 final rule, environmental groups challenged the MACT floor limits that the EPA promulgated in 1995 in connection with their challenge to the revised standards, citing a then-recent decision questioning the legality of MACT floors derived in part from State-issued air permits.³¹ In light of this decision and several other relevant decisions regarding the calculation of MACT floors under CAA section 112, the EPA sought a voluntary remand of the 2006 final rule.³² In its remand

²⁷ See memorandum entitled *Emissions from Large MWC Units at MACT Compliance*, June 20, 2002. Walt Stevenson to Docket A-90-45, entered as item A-90-45, VIII-B-11. Available online as Docket ID EPA-HQ-OAR-2003-0072-0048.

²⁸ *Id.*

²⁹ 71 FR 27324 (May 10, 2006).

³⁰ *Id.*

³¹ Specifically, petitioners pointed to a 2004 decision from the D.C. Circuit, which remanded MACT floors established for existing small MWCs derived from state-issued permit limits after finding that the EPA did not fulfill the requirement of CAA section 129(a)(2). See *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936 (D.C. Cir. 2004).

³² See *Sierra Club v. EPA*, 479 F.3d 875 (D.C. Cir. 2007) (vacating the EPA's regulations setting national emission standards for brick and clay ceramics kilns under CAA section 112); *NRDC v. EPA*, 489 F.3d 1250 (D.C. Cir. 2007) (vacating the EPA's regulations setting national emission

²⁰ The scope of CAA section 129 further demonstrates why it would be unreasonable to assume that Congress intended the EPA to revise standards at five-year intervals based on a specific standard-setting provision like CAA section 129(a)(2) as opposed to a more general appropriateness standard. For example, CAA section 129(h)(3) separately requires the EPA to promulgate standards to address residual risk (which, unlike MACT, is not a technology-based analysis) if doing so would be required under CAA section 112(f). 42 U.S.C. 7412(h)(3). This review is required eight years after the initial promulgation of CAA section 129 standards. *Id.* 7412(f)(2). An interpretation of "this section" in CAA section 129(a)(5) that incorporates the requirements of all standard-setting provisions in CAA section 129, whether technology-based or risk-based or subject to their own separate review schedule, would be nonsensical.

²¹ See *Michigan v. EPA*, 576 U.S. 743, 752 (2015) (emphasizing that "'appropriate' is 'the classic broad and all-encompassing term that naturally and traditionally includes consideration of all the relevant factors'").

²² *NRDC v. EPA*, 529 F.3d 1077, 1084 (D.C. Cir. 2008).

²³ *Id.*; see also *Ass'n of Battery Recyclers v. EPA*, 716 F.3d, 667, 673-74 (D.C. Cir. 2013); *Nat'l Ass'n*

motion, the EPA announced its intention to grant the environmental groups' administrative petition to revisit the 1995 MACT floors and reevaluate the 2006 final rule as necessary to comport with any revisions.³³ The D.C. Circuit granted the EPA's request for a remand in February 2008.³⁴

In December 2021, another environmental group petitioned in the D.C. Circuit for a writ of mandamus related to the 2008 order granting voluntary remand.³⁵ In January 2022, the same organization also filed a citizen suit under CAA section 304(a)(2), alleging that the EPA failed to carry out a nondiscretionary duty to timely review and, if appropriate, revise emissions standards for large MWCs pursuant to the five-year review provision in CAA section 129(a)(5).³⁶ On November 9, 2023, the D.C. Circuit entered a consent decree requiring the EPA to sign a proposed rule by December 31, 2023, and a final rule by November 30, 2024, to satisfy the EPA's obligations in the citizen suit and mandamus action (*i.e.*, to complete the five-year review and MACT floor reevaluation). The parties later filed a joint stipulation to extend the consent decree deadline for the final rule to December 22, 2025.³⁷

C. What changes did we propose for the large MWC source category?

On January 23, 2024, the EPA proposed revisions to the NSPS and EG for large MWCs to reflect the results of the EPA's reevaluation of the MACT floors, pursuant to the 2008 voluntary remand, and the results of the EPA's five-year review, pursuant to CAA section 129(a)(5).³⁸ The EPA proposed

standards under CAA section 112 for hazardous air pollutants from industrial, commercial, and institutional boilers and process heaters and the EPA's regulations under CAA section 129 defining the term "commercial and industrial solid waste incineration unit"; *NRDC v. EPA*, 489 F.3d 1364 (D.C. Cir. 2007) (vacating portions of an EPA rule promulgated under CAA section 112 regulating hazardous air pollutants from the manufacture of plywood and composite wood products).

³³ In its motion for a voluntary remand, the EPA explained that it intended to "re-analyze the floors in the 1995 rule" and "revisit the data and information used in the 1995 rule, as well as obtain additional data, to determine whether the 1995 floors need to be revised." EPA Motion for Voluntary Remand at 8, *Sierra Club v. EPA*, No. 06–1250 (D.C. Cir. filed Nov. 9, 2007).

³⁴ Order, *Sierra Club v. EPA*, No. 06–1250 (D.C. Cir. filed Feb. 15, 2008).

³⁵ *In re E. Yard Cmty. for Envtl. Justice*, No. 21–1271 (D.C. Cir. filed Dec. 21, 2021).

³⁶ *E. Yard Cmty. for Envtl. Justice v. EPA*, No. 22–cv–0094 (D.C. Cir. filed Jan. 13, 2022).

³⁷ Notice of Lodging of Proposed Consent Decree, *E. Yard Cmty. for Envtl. Justice v. EPA*, No. 22–cv–0094 (D.C. Cir., filed May 23, 2023).

³⁸ 89 FR 4243 (Jan. 23, 2024).

the following with respect to 40 CFR part 60, subparts Cb and Eb:

- Revisions to all existing-source emission limits in the EG, except the existing CO and NO_x limits for two subcategories of combustors, and revisions to all new-source emission limits in the NSPS. With the exception of proposed changes to the NO_x limits, the proposed revisions resulted from the EPA's reevaluation of the MACT floors in response to the 2008 voluntary remand.

- Simultaneously, the EPA conducted a five-year review as required by CAA section 129(a)(5). Based on this review, the EPA proposed NO_x standards that were more stringent than the reevaluated MACT floor emissions limits for NO_x and that were consistent with the recently promulgated Good Neighbor Plan, which set ozone season standards for a significant portion of the large MWC source category.³⁹

- Removal of the alternative percent reduction standards to establish a consistent approach to compliance for all facilities and removal of the NO_x emissions averaging allowance for existing sources.

- Removal of the SSM exclusions and exemptions and significant revisions to the monitoring provisions during these periods. For NO_x, SO₂, and CO, where a CEMS continuously measures the pollutant concentration, we proposed to eliminate the exclusions of periods of SSM from CEMS data averaging calculations present in the 1995 large MWC standards and instead require a monitoring and compliance demonstration approach used in the more recent CAA section 129 rulemaking for commercial and industrial solid waste units (CISWI) NSPS and EG.⁴⁰

- Conversion of the 1995 large MWC regulatory text describing emission standards and performance testing requirements from paragraphs into tables to facilitate easier implementation and understanding of the requirements.

- Requiring source owners and operators to submit electronic copies of required performance test reports, performance evaluation reports, semiannual compliance reports, and annual reports through the EPA's Central Data Exchange (CDX), using the Compliance and Emissions Data Reporting Interface (CEDRI), to increase the usefulness of the data contained in those reports and to improve availability and transparency of data.

- Reestablishing new and existing source applicability so that large MWC

units currently subject to the 2006 NSPS would become "existing" sources under the proposed amended standards and would be required to meet the revised EG by the applicable compliance date for the revised guidelines. Large MWC units that commence construction after the date of the proposal or commence a modification on or after the date six months after promulgation of the amended standards would be "new" units subject to the more stringent NSPS emission limits.

- Eliminating the regulatory title V permitting requirement for air curtain incinerators that burn only wood waste, yard waste, and clean lumber and are not located at a major source or subject to title V for other reasons.

- Other technical amendments, including closing a 2007 proposed reconsideration action, correcting certain typographical errors, making certain technical corrections, and clarifying certain provisions in the NSPS and EG.⁴¹

D. What outreach did we conduct following the proposal?

In developing this final rule, the EPA conducted post-proposal outreach activities with communities, States, local governments, industry, and Tribes. On January 11, 2024, the EPA emailed a consultation letter to Tribal nations explaining how to comment on the proposed rulemaking and how to request consultation with the EPA. The EPA participated in the National Tribal Air Association monthly meeting on January 25, 2024. On January 16, 2024, the EPA presented details of the large MWC proposal to members of interested communities and environmental organizations. Additionally, the EPA held an informational webinar with air pollution control agencies on February 29, 2024. The EPA's outreach activities also included meetings with the following: Waste-to-Energy Association (WTEA) to discuss varying aspects of the proposal, including waste variability, Reworld Waste (formerly Covanta) to discuss their concerns about the proposed emission limits, compliance implications, and costs of the proposal, and a coalition of community representatives and organizations to discuss their concerns about the rulemaking and impacts of air pollution near large industrial facilities. The EPA subsequently reopened the comment period on the proposed amendments to the large MWC regulations for an additional 4 months, from January 16, 2025, to May 30, 2025,

³⁹ 88 FR 36654 (June 5, 2023).

⁴⁰ 81 FR 40956 (June 23, 2016).

⁴¹ 72 FR 13016 (Mar. 20, 2007).

to gather additional information and documentation.

III. What is included in these final rules?

In this action, we are finalizing decisions and revisions for the NSPS and EG for large MWC units. We discuss the significant comments on the proposal and changes the EPA made to the final NSPS and EG in more detail in section IV of this preamble. A comment summary and the EPA's responses are available in the docket.⁴²

This final rule sets out the EPA's determinations resulting from our reevaluation of the 1995 MACT floor standards for large MWCs pursuant to the 2008 voluntary remand and from our five-year review of large MWC standards under CAA section 129(a)(5), as well as the final amendments to the large MWC NSPS and EG based on those determinations. This action also finalizes other changes to the NSPS and EG largely as proposed, including the following: removal of SSM exclusions and exemptions; streamlined regulatory language; revisions to recordkeeping and reporting requirements; addition of electronic reporting requirements; reestablishment of new and existing source applicability dates; elimination of title V requirements for air curtain incinerators that burn only wood waste, yard waste, and clean lumber and are not located at a major source or subject to title V for other reasons; closing the 2007 proposed reconsideration action; and other technical, typographical, and clarifying corrections to certain provisions in the NSPS and EG.

The EPA is finalizing the amendments as new subparts VVVV (Standards of Performance for Large Municipal Waste Combustors) and WWWW (Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before January 23, 2024), in lieu of revising existing subparts Cb (Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994) and Eb (Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996). As proposed, we are reserving (removing

without replacing) subpart Ea (NSPS limits for units constructed after December 20, 1989, and on or before September 20, 1994). Although we proposed to promulgate amendments as revisions to subparts Cb and Eb, the EPA has determined that creating new subparts will lessen confusion for affected sources and implementing agencies. Therefore, we have created new subparts for the NSPS and EG at 40 CFR part 60, subparts VVVV and WWWW, respectively, which will replace subparts Cb, Ea, and Eb once facilities are required to comply with the new subparts. The revised standards and new subparts will become effective May 11, 2026. For the EG, States must submit revised State plans to the EPA within one year after promulgating the amendments, by March 10, 2027. Existing large MWC units must demonstrate compliance with the updated standards as expeditiously as practicable after approval of a State plan, but no later than three years after the date of approval of a State plan or five years after promulgation of the revised standards, whichever is earlier. For NSPS, new sources must be in compliance with the updated standards within six months from promulgation, by September 10, 2026, or upon startup, whichever is later.

By incorporating these amendments as new subparts, we hope to alleviate confusion that may arise from significant amendments to the current subpart Cb and subpart Eb regulatory text. For example, to support making the format and structure of the regulations more understandable based on Federal Plain Language Guidelines, we are moving the requirements in subparts Cb and Eb to subparts VVVV and WWWW. Additionally, by creating new subparts VVVV and WWWW, we can omit transitional regulatory requirement language and have a single applicability date (*i.e.*, January 23, 2024) for the new subparts, upon which applicability of subparts Cb, Ea, and Eb ends and a single subpart, WWWW, apply to all the current, operating large MWCs. (We provide additional information on the effective and compliance dates of the final rule in section III.D of this preamble.) Finally, to better accommodate potential future updates to the regulations, in subparts VVVV and WWWW, we are numbering sections in increments of five to support adequate numeric spacing to revise or add new regulatory text sections if needed.

A. What are the final rule amendments based on the response to the voluntary MACT floor remand and five-year review for the large MWC source category?

1. Emission Limits

In the proposed rule, the EPA presented amendments resulting from its reevaluation of the 1995 large MWCs MACT standards undertaken pursuant to the D.C. Circuit's 2008 voluntary remand and the EPA's five-year review of large MWC standards, undertaken pursuant to CAA section 129(a)(5). Based on the EPA's reevaluation of the MACT floors and beyond-the-floor options and review of the standards and requirements, the EPA proposed revised limits at the MACT floor for all covered pollutants except for NO_x, for which the EPA proposed to implement more stringent emission standards as a result of the five-year review.

Following consideration of comments, input from stakeholder meetings, and additional data received post-proposal, the EPA revised its initial reevaluation of the 1995 MACT floors and is finalizing recalculated emission limits.⁴³ Specifically, for the EG, the EPA is finalizing newly revised emission limits for all pollutants, except for the CO and NO_x limits for two categories and subcategories of combustors, respectively. The revised limits reflect the MACT floor reevaluation results rather than the results of the five-year review. For the NSPS, the EPA is finalizing revised reevaluated MACT emission limits for all pollutants except NO_x, which will retain the proposed five-year review limit for new sources.⁴⁴

Tables 2 and 3 of this preamble present the final EG and NSPS emission limits for large MWCs, respectively. For comparison, the table presents current emission limits (from the 2006 rule) for both existing and new units as well. The EPA assessed NO_x and CO limits by subcategories, determined based on combustor type, including mass burn waterwall (MB/WW), mass burn rotary combustor (MB/RC), refuse-derived fuel stoker (RDF/S), RDF spreader stoker fixed floor/100 percent coal capable and RDF semi-suspension/wet RDF process

⁴² Summary of Public Comments and Responses for Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Voluntary Remand Response and 5-year Review ("Comment Response Document"), Docket ID No. EPA-HQ-OAR-2017-0183.

⁴³ As explained in sections IV.A.3 and IV.A.4 of this preamble, the EPA received additional emissions test data from the 1990–1995 period during the original comment period and the supplemental 2025 comment period that bolstered the dataset available for reanalysis of the MACT floors.

⁴⁴ See section IV of this preamble for rationale for these revisions and summarized comments and responses on this topic.

conversion (RDF/SS), and RDF/
fluidized bed combustion (RDF/FBC).⁴⁵

TABLE 2—COMPARISON OF EXISTING SOURCE LIMITS FOR 2006 LARGE MWC RULE AND THE FINAL EMISSION LIMITS FOR EXISTING SOURCES

Pollutant	Units (@ 7 percent O ₂)	2006 EG (current) limits	Final subcategory EG limits				
			MB/WW	MB/RC	RDF/S	RDF/SS	RDF/FBC
Cd	µg/dscm	35			10		
Pb	µg/dscm	400			68		
PM	mg/dscm	25			20		
Hg	µg/dscm	50			50		
PCDD/PCDF	ng/dscm (total mass basis)	¹ 30/35			14		
HCl	ppmvd	29			10		
SO ₂	ppmvd	29			22		
NO _x	ppmvd	² 180–250	⁴ 205	150	160	160	⁴ 180
CO	ppmvd	³ 50–250	⁴ 100	110	110	⁴ 250	110

¹ 30 ng/dscm for fabric filter equipped MWC units and 35 ng/dscm for electrostatic precipitator-equipped MWC units.

² Range in limits based on combustor type. MB/WW (205); RDF (250); MB/RC (210); RDF/FBC (180).

³ Range in limits based on combustor type. MB/WW (100); MB/RC (250); RDF/S (200); RDF/SS (250); RDF/FBC (200); modular starved air or modular excess air (50).

⁴ Reevaluated MACT floor limit was less stringent than current limit, so current limit was retained.

TABLE 3—COMPARISON OF NEW SOURCE LIMITS FOR 2006 LARGE MWC RULE AND THE FINAL EMISSION LIMITS FOR NEW SOURCES

Pollutant	Units (@ 7 percent O ₂)	2006 NSPS (current) limits	Final subcategory NSPS limits	
			MB	RDF
Cd	µg/dscm	10	2.3	
Pb	µg/dscm	140	23	
PM	mg/dscm	20	5.1	
Hg	µg/dscm	50	32	
PCDD/PCDF	ng/dscm (total mass basis)	13	11	
HCl	ppmvd	25	7.2	
SO ₂	ppmvd	30	14	
NO _x ¹	ppmvd	150	50	
CO	ppmvd	² 50–150	76	100

¹ NO_x limit based on 50 ppm (24 hour) permitted limit for units currently equipped with selective catalytic reduction (SCR) control devices.

² Range in limits based on combustor type. MB/WW (100); RDF/S (150); Modular starved air or modular excess air (50).

2. MACT Floor Assessment

This final rule fulfills the EPA's reevaluation of the 1995 MACT floors for the large MWC source category pursuant the D.C. Circuit's 2008 voluntary remand of the 2006 large MWC rule, as discussed in section II.B of this preamble. In response to the remand, the EPA explained at proposal that the Agency lacked sufficient data from the time period of the 1995 large MWC rulemaking to now characterize the performance of all units needed to reassess the original MACT floors. The EPA proposed to recalculate the MACT floors for large MWCs based on compliance data from 2000 through 2009 reported for the population of units that were operating at the time of the original EG development (1990), adjusted to account for the installation

of air pollution control devices (APCD) and other improvements that sources made to meet the 1995 standards. The EPA subsequently ranked the best performing units in the source category for each covered pollutant based on the adjusted emissions, analyzed the data to determine the average performance of those units, considered beyond-the-floor options, and established MACT floor emission limits.⁴⁶

Following consideration of comments and additional information received on the proposed rule, the EPA is revising its reassessment of the MACT floor limits for the EG and NSPS. The EPA is finalizing a similar approach as that in the proposed rule, using separate methodologies for pollutants having stack test data (Cd, Pb, Hg, PM, HCl, and PCDD/PCDF) and pollutants having

CEMS data (or CEMS pollutants) (CO, NO_x, and SO₂). However, the final limits incorporate new data submitted for years 1990 to 1995 for unit ranking and UPL determinations, in addition to the 2000 to 2009 compliance dataset that the EPA used for the proposed limits. Considering the unique situation of the MACT reevaluation, the EPA's limited ability to gather multiple years of tests for the top performers from several decades ago, and the high variability of waste that these sources use as fuel, the EPA also has revised the NSPS methodology to account for additional intra-source variability in top performers, instead of relying on a singular test from the 1990s. For each stack test pollutant, the EPA performed a statistical analysis on the annual test averages from the 1990 to 1995 dataset

⁴⁵ The EG contain CO emission limits for two additional subcategories of units that are not found in the NSPS. More recent installations have not

used these designs, and the EPA expects that most new large MWCs will likely be MB/WW.

⁴⁶ See discussion in section III.A.3 of this preamble.

and adjusted averages from the 2000 to 2009 dataset to determine an upper prediction limit (UPL).⁴⁷ For EG limits, the EPA used average annual run data corresponding to the top 12 percent of units, and for NSPS limits, the EPA used run data for the single top performer. For NSPS limits, the EPA also assessed the distribution and variance of 2000 to 2009 test averages for the top performer incorporated this data into the UPL calculation.

For CEMS pollutants (CO, NO_x, and SO₂), the EPA reevaluated MACT floor limits by averaging annual peak CEMS data corresponding to the top performers for each pollutant and applicable subcategory. For NO_x and CO, the EPA calculated separate NSPS limits for only two subcategories, MB (as reflected by MB/WW combustor technology) and RDF. In cases where results were greater (less stringent) than the current large MWC EG limit, the EPA proposed to retain the existing

regulatory limit as the MACT floor limit. While the methodology has not changed from proposal, based on comments and evaluation of the data from the units identified as best performers for CO at proposal, we performed a paired t-test analysis on the best performers for CO and determined that the data reported for Wheelabrator Bridgeport Units #1, #2, and #3 exhibit a different population characteristic from the remainder of the source category, *i.e.*, statistically, there is a significant difference in the CO data reported by the Wheelabrator Bridgeport facility from the CO data reported by all other facilities that is outside the variation we would expect of CO emissions from large MWCs. This indicates that the owner or operator of these units may have reported the data in a different way than requested based on a different understanding of the reporting requirement, resulting in reported CO numbers that were much lower than all other facilities not

because of better operation and lower emissions but because of differently understood reporting requirements. As a result, the EPA removed the CEMS data for these units from the CEMS pollutant calculations. The removal results in a new NSPS CO limit of 76 ppmvd from the proposed NSPS CO limit of 16 ppmvd and an EG SO₂ limit of 22 ppmvd from the proposed EG SO₂ limit of 20 ppmvd. Further discussion of this change from proposal is in section IV of this preamble.

Table 4 of this preamble presents the UPL results and the derived final EG and NSPS MACT floor limits for stack test pollutants. Tables 5 and 6 of this preamble summarize the averages and subsequent MACT floor EG and NSPS limits, respectively, for CEMS pollutants. Additional discussion of the methodology, detailed results, and a copy of the UPL template are available in the docket for this rulemaking.⁴⁸

TABLE 4—LARGE MWC MACT FLOOR EG AND NSPS LIMITS FOR STACK TEST POLLUTANTS

Pollutant	Units (@ 7 percent O ₂)	EG MACT floor calculations		NSPS MACT floor calculations	
		UPL result	MACT floor limit	UPL result	MACT floor limit
Cd	µg/dscm	9.99	10	0.577	¹ 2.3
Pb	µg/dscm	67.86	68	5.33	¹ 23
PM	mg/dscm	19.05	20	5.06	5.1
Hg	µg/dscm	52.67	50	31.60	32
PCDD/PCDF	ng/dscm	13.88	14	10.61	11
HCl	Ppmvd	9.82	10	7.103	7.2

¹ Calculated UPL result was less than three times the representative detection level (RDL), so MACT Floor limit set at the 2 dscm 3*RDL value (2.3 ug/dscm for Cd, 23 ug/dscm for Pb).

TABLE 5—LARGE MWC MACT FLOOR EG LIMITS FOR CEMS POLLUTANTS

Pollutant	Units (@ 7 percent O ₂)	EG MACT floor calculations									
		Average of annual peak CEMS data					MACT floor limit				
		MB/WW	MB/RC	RDF	RDF/SS	RDF/FBC	MB/WW	MB/RC	RDF	RDF/SS	RDF/FBC
SO ₂	ppmvd	21.26					22				
NO _x	ppmvd	226.52	142.25	157.29		290.83	^a 205	150	160		¹ 180
CO	ppmvd	221.44	109.92	102.14	818.90	101.40	^a 100	110	110	¹ 250	110

¹ Calculated limit was less stringent than current limit so kept at current limit.

TABLE 6—LARGE MWC MACT FLOOR NSPS LIMITS FOR CEMS POLLUTANTS

Pollutant	Units (@ 7 percent O ₂)	NSPS MACT floor calculations			
		Average of annual peak CEMS data		MACT floor limit	
		¹ MB	¹ RDF	¹ MB	¹ RDF
SO ₂	ppmvd	13.96		14	
NO _x	ppmvd	130.50	154.46	² 140	^{2 3} 150
CO	ppmvd	75.71	99.03	76	100

¹ The MB/RC, RDF/SS, and RDF/FBC subcategories are representative of unique facilities that likely will not be a design used in any future large MWC units. For the NSPS purposes, it is assumed the overarching MB or RDF subcategories will represent performance of any units built in the future.

⁴⁷ For a more detailed discussion, see section IV.A.4 of this preamble.

⁴⁸ See memorandum entitled *MACT Floor Calculations for Large Municipal Waste Combustor*

Units—Final Rule, Docket ID No. EPA-HQ-OAR-2017-0183.

² These values represent limits that would have resulted if the EPA had selected the MACT floor as its basis for the NSPS NO_x limits; however, the EPA is finalizing the proposed 50 ppmvd NO_x limit for all subcategories based on units currently equipped with SCR control devices.

³ Calculated limit was less stringent than current limit, so current limit would have been retained if the MACT floor were selected.

3. Beyond-the-Floor and Five-Year Review Results and Selection of Emission Limits

Following consideration of comments received on the proposed rule, the EPA is not finalizing the beyond-the-floor and five-year review assessments for the EG as proposed. The final rule uses the MACT floor calculations to establish EG and NSPS limits for existing and new units for all pollutants except for NO_x (which reflect the results of the MACT floor calculations for the EG as well as the results of the five-year review for the NSPS).

For its proposed assessment of beyond-the-floor in the reevaluation of the 1995 standards, the EPA assumed that the beyond-the-floor option for existing sources is the new source MACT floor (emissions control achieved in practice by the best controlled similar unit, as required by CAA section 129(a)(2)) which is more stringent than the existing source MACT floor (an average of a broader range of best performing units, also as required by CAA section 129(a)(2)). To assess additional, currently in-use control options as part of the five-year review pursuant to CAA section 129(a)(5), the EPA evaluated the performance of control measures at large MWC sources (including the installed emissions control equipment), and recent developments in practices, processes, and control technologies, including the recently finalized Good Neighbor Plan rulemaking. The EPA proposed NO_x control technologies consistent with those discussed in the Good Neighbor Plan as five-year review options for consideration. For the other covered pollutants, there are some controls that have been demonstrated on non-MWC combustion sources that could potentially be applied to large MWCs; however, the technical feasibility and cost-effectiveness of these controls when used on large MWCs are highly uncertain at this time.

Following its evaluation of these scenarios, the EPA proposed a 110 ppmvd (24-hour) NO_x limit (which was consistent with the NO_x limit finalized under the Good Neighbor Plan), as the five-year review option for existing units based on the application of advanced selective noncatalytic reduction (ASNCR) or Covanta LNTTM NO_x technologies. The EPA also proposed a NO_x NSPS limit of 50 ppmvd (24-hour), based on the permitted NO_x limit for the only facility

currently using selective catalytic reduction (SCR) technology with an air-to-air heat exchanger providing flue gas reheat prior to entering the SCR reactor to represent the five-year technology review standard for new sources.

Based on the consideration of several factors, including the stay of the Good Neighbor Plan,⁴⁹ the EPA is not finalizing the five-year review limit for NO_x emissions from existing units as proposed. First, the total compliance costs for existing sources to meet the proposed 110 ppmvd NO_x limit is significantly higher than the EPA's estimate in the proposed rule. At proposal, the EPA excluded units expected to be covered by the Good Neighbor Plan from the \$257 million capital cost estimate. Inclusion of the compliance costs for those units significantly increases the total estimated capital cost to \$412 million. These large capital expenditures likely will pose a significant challenge to the large MWC industry. The EPA recognizes that this is a unique industry providing essential public services, with many facilities owned and operated by State or local governments. These large capital expenditures could hinder government funded municipalities' ability to continue to utilize large MWCs for the public MSW disposal needs.

Second, at the same time, emission reductions from the proposed 110 ppmvd NO_x limit likely are much lower than the EPA's estimate at proposal. The EPA estimated baseline NO_x emissions using the average of the available annual peak 24-hour CEMs data from 2000 through 2007. Using the peak values likely overestimates annual emissions by about 30% compared to the 2008 National Emissions Inventory and, in turn, likely overestimates the amount of emission reductions and therefore the cost effectiveness of the proposed NO_x limit.⁵⁰

For these reasons, the EPA is not finalizing the 110 ppmvd limit for NO_x for existing sources and is instead promulgating the re-evaluated MACT floor limits for existing sources discussed in section III.A.2 of this preamble. The EPA is finalizing the 50 ppmvd NO_x limit for new sources as proposed, as there are units operating

that have cost-effectively used SCR to perform at this level for several years, and the EPA sees no technical or economic barriers to future sources doing likewise.

B. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?

The EPA is finalizing, as proposed, revisions to the SSM provisions of the NSPS and EG in response to the D.C. Circuit's decision in *Sierra Club v. EPA*.⁵¹ This final rule removes the exemption for SSM periods contained in the 1995 large MWC rule so that the emission standards apply at all times. The EPA is not finalizing a separate emission standard for large MWC units during periods of startup and shutdown.⁵²

The EPA notes that on September 5, 2025, the D.C. Circuit held in *SSM Litigation Group v. EPA* that although the EPA has no authority under the CAA to "create a regulatory 'defense' that limits the remedial authority granted by Congress to the Federal courts," a "complete affirmative defense, like the one at issue [in that case], is permissible because it relates to the antecedent question of liability and therefore does not impinge on the judiciary's authority to award 'appropriate civil penalties.'" ⁵³ The EPA is not addressing *SSM Litigation Group* in this action because the LMWC NSPS and EG do not contain affirmative defense provisions. However, the EPA may in an appropriate future action request comment on whether and how we should establish affirmative defense provisions within section 129 regulations in response to the D.C. Circuit's *SSM Litigation Group* decision. As proposed, the emission standards that the EPA is finalizing do not factor emissions that occur during periods of malfunction into the development of the standards. This is consistent with the D.C. Circuit's decision in *U.S. Sugar Corp. v. EPA*,⁵⁴ as explained further below.

The EPA is also finalizing, as proposed, revisions to eliminate the exclusions of periods of warmup, startup, and shutdown from CEMS data averaging calculations and to replace

⁴⁹ See *Ohio v. EPA*, 603 U.S. 279 (2024) (staying the Good Neighbor Plan as likely arbitrary and capricious).

⁵⁰ 2008 National Emissions Inventory (<https://www.epa.gov/air-emissions-inventories/2008-national-emissions-inventory-nei-data>).

⁵¹ 551 F.3d 1019 (D.C. Cir. 2008).

⁵² See the rationale in section IV.B of this preamble.

⁵³ 150 F.4th 593, 599 (D.C. Cir. 2025) (quoting CAA section 304(a), 42 U.S.C. 7604(a)).

⁵⁴ 830 F.3d 579, 606–10 (D.C. Cir. 2016).

them with a monitoring and compliance demonstration approach. The final rule requires that affected sources collect CEMS data and use this data to determine compliance when the large MWC unit is operating. While the large MWC unit is warming up, starting up, or shutting down, CEMS data must be flagged as warmup, startup, or shutdown period data. The final rule requires that affected sources use the CEMS data to calculate rolling or block averages and to average the data as measured instead of applying a seven percent oxygen diluent cap for the warmup period and an allowance of up to three hours of startup or shutdown time per occurrence. Under the final rule, a deviation occurs when an operating combustor does not record monitoring data due to monitor malfunctions.

C. What are the final rule amendments addressing other changes to the large MWC EG and NSPS?

1. Changes to the Applicability Date of the Large MWC EG and NSPS

As noted earlier in section III of this preamble, the EPA is finalizing the amendments as 40 CFR part 60, subparts VVVV (Standards of Performance for Large Municipal Waste Combustors) and WWWW (Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before January 23, 2024), in lieu of revising existing subparts Cb (Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994) and Eb (Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996).

The EPA is finalizing, as proposed, that large MWC units currently subject to the NSPS are existing sources with respect to the emission standards promulgated in this final rule. Under this final rule, large MWC units that currently are subject to the NSPS at 40 CFR part 60, subparts Ea and Eb will be subject to the revised EG standards at 40 CFR part 60, subpart WWWW through meeting requirements of the relevant approved State or Federal plans. Those sources will continue to be NSPS units subject to the current large MWC NSPS until the sources come into compliance with the requirements of the revised EG standards. The revised EG standards are as stringent as, or more protective than, the 1995 large MWC new source emission limits, as revised in 2006, with

the sole exception of PCDD/PCDF. For the PCDD/PCDF limit, large MWC units that are subject to NSPS subpart Eb but are existing sources under the new EG subpart WWWW remain new sources under NSPS subpart Eb and, as such, must continue to comply with the more stringent NSPS limit (*i.e.*, 13 ng/dscm total mass basis at seven percent oxygen) in NSPS subpart Eb.

Under the final rule, large MWC units that commence construction after January 23, 2024, and units that are modified or reconstructed after September 10, 2026 are new units subject to the NSPS emission limits. Large MWC units that commence construction, reconstruction, or modification prior to those dates would be existing units subject to the revised EG standards under 40 CFR part 60, subpart WWWW. Under the final rule, any large MWC unit that commenced construction on or before January 23, 2024, or that is reconstructed or modified prior to September 10, 2026, remains subject to 40 CFR part 60 subparts Cb, Ea, or Eb, as appropriate, until the unit comes into compliance with the relevant approved State or Federal plan to implement and enforce the revised EG. Large MWC units that commence construction after January 23, 2024, or that are reconstructed or modified on or after September 10, 2026 must meet the revised NSPS emission limits in 40 CFR part 60, subpart VVVV by September 10, 2026, or upon startup, whichever is later.

As stated in the proposal, the EPA intends to “reserve” 40 CFR part 60, subpart Ea NSPS standards once the revised EG emission limits are implemented. Due to the resetting of the “new” and “existing” definitions, any units that meet 40 CFR part 60, subpart Ea applicability would become existing units subject to the new 40 CFR part 60, subpart WWWW once implemented through a relevant State or Federal plan. Additionally, based on changes the EPA has made since proposal to introduce the new subparts to 40 CFR part 60 for large MWC regulations, once all existing units are in compliance with the requirements of 40 CFR part 60, subpart WWWW through a State or Federal plan, subparts Cb and Eb will no longer be necessary. Therefore, we intend to reserve all three subparts (40 CFR part 60 subparts Cb, Ea, and Eb) in a future action for potential use in a future rulemaking once all large MWC units are in compliance with the requirements of 40 CFR part 60, subpart WWWW through either a State or Federal plan.

2. Changes to Alternative Percent Reduction Standards for Hg, HCl, and SO₂ and Removal of Emissions Averaging Allowance for NO_x

The EPA is not finalizing, as proposed, the removal of the alternative percent reduction standards, including the 85 percent reduction allowed for Hg (NSPS and EG), the 95 percent allowed for HCl (NSPS and EG), and the 80 percent (NSPS) and 75 percent (EG) allowed for SO₂. Instead, after considering public comments and upon further review, we are finalizing recalculated alternative percent reduction standards based on additional removal efficiency data from the years 1990 to 1995 for the best performing units used in the reevaluated MACT standards for Hg, HCl and SO₂.

The EPA is finalizing, as proposed, the removal of the NO_x emissions averaging alternative provided in 40 CFR 60.33b(d)(1) of the existing EG regulation and will not include this provision in subpart WWWW. Once implementation of subpart WWWW occurs, sources will no longer be able to comply with applicable requirements using NO_x emissions averaging.⁵⁵

3. Changes for Optional Continuous Monitoring

The EPA is finalizing, as proposed, the incorporation of new performance specifications for the optional use of PM CEMS, HCl CEMS or Hg CEMS in place of stack testing and for the optional use of multi-metal, PCDD/PCDF CEMS in place of stack tests after promulgation of a performance specification or approval of a site-specific monitoring plan. As discussed in the preamble to the proposed rule, in the 2006 final amendments to the large MWC requirements, the EPA revised the PM and Hg compliance testing requirements to allow the optional use of a PM CEMS or Hg CEMS in place of stack testing and the optional use of multi-metal, HCl, PCDD/PCDF CEMS in place of stack tests after promulgation of performance specifications for these CEMS.⁵⁶ This final rule incorporates promulgated performance specifications (PS), including PS-11 (PM), PS-12A (Hg), and PS-12B (Hg).⁵⁷ These updates do not require a facility that already has an approved site-specific monitoring plan to incorporate these optional CEMS or to obtain reapproval of that plan on that basis. If owners and operators use these optional CEMS for compliance

⁵⁵ See the rationale in section IV.C of this preamble.

⁵⁶ 89 FR 4257 (Jan. 23, 2024); 71 FR 27326 (May 10, 2006).

⁵⁷ Appendix B to Part 60, Title 40.

demonstration purposes, owners and operators must submit these data to the EPA in the same manner as data for the required CEMS pollutants (CO, NO_x, and SO₂).

4. Changes To Streamline Regulatory Text Within the Large MWC EG and NSPS

The EPA is finalizing, with revisions, proposed changes to the regulatory format of the large MWC standards. The final rule converts text describing emission standards and performance testing requirements to tables to facilitate easier implementation and understanding of the requirements. As noted throughout this section of the preamble, the EPA is finalizing the large MWC NSPS and EG as new subparts VVVV (Standards of Performance for Large Municipal Waste Combustors) and WWWW (Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before January 23, 2024), in lieu of revising existing subparts Cb and Eb. The EPA has converted the proposed streamlining changes to the new subparts to reduce potential confusion for affected sources and implementing agencies. The EPA also developed the new final subparts VVVV and WWWW to update the format and structure of the regulations to be more accessible, based on Federal Plain Language Guidelines, and establish section-numbering increments of five to allow for adequate numeric spacing to revise or add new regulatory text sections, if needed, in the future.⁵⁸

5. Closing the 2007 Proposed Reconsideration of the Large MWC EG and NSPS

In 2007, the EPA announced that the Agency would reconsider three aspects of the 2006 final rule in response to requests by stakeholders: (1) operator stand-in provisions, (2) data requirements for continuous monitors, and (3) the status of operating parameters during the two weeks prior to Hg and PCDD/PCDF testing.⁵⁹ In both 2007 and 2024, the EPA proposed that no changes were necessary to resolve the 2007 reconsideration.⁶⁰ As we received no adverse comments on our proposed approach, we are now completing action on this reconsideration by making no changes to these three aspects of the rule.

6. Updating Operator Training Examination Requirements

The final rule updates the citation to and incorporates by reference the American Society of Mechanical Engineers (ASME) Standard for the Qualification and Certification of Resource Recovery Facility Operators (QRO) to reflect 2005 updates made to the QRO by ASME. The rule and text of 40 CFR 60.17(g), 60.5865, and 60.6420 update the citation to this document and incorporate it by reference as QRO-1-2005.

7. Revisions to Title V Permitting Requirements for Air Curtain Incinerators Burning Only Wood Waste, Clean Lumber, and Yard Waste

For air curtain incinerators that burn only wood waste, clean lumber, yard waste and that are not located at a major source or subject to title V for other reasons, the EPA is finalizing, as proposed, removal of the requirement in the 1995 large MWC final rule that air curtain incinerators that burn only wood waste, clean lumber, and yard waste and comply with the opacity limits established under CAA section 129(g)(1)(C) must apply for and obtain a title V operating permit.⁶¹ CAA section 129(e), which requires title V permits for “solid waste incineration units,”⁶² does not apply to these ACI because, as noted in the proposed rule, the definition of “solid waste incineration unit” in CAA section 129(g)(1) “does not include (C) air curtain incinerators [that] only burn wood wastes, yard wastes and clean lumber” and comply with applicable opacity limits.⁶³ CAA section 502(a)⁶⁴ and the EPA’s regulations at 40 CFR 70.3 identify the types of sources that must obtain a title V permit for operation. In particular, title V permitting applies to any major source as defined in 40 CFR 70.2 without exceptions, including ACI that are not solid waste incineration units under CAA section 129(g)(1) but are themselves major sources. Based on available data, ACI that burn exclusively wood waste, clean lumber, and yard waste are commonly located at facilities that are not major sources and would not otherwise require a title V operating permit, such as land clearing operations on public or private land. Further, to the EPA’s knowledge, no large MWC facility operates an ACI that burns exclusively wood waste, clean lumber, and yard

waste on its premises. This final rule clarifies the applicability of title V permitting requirements for ACIs that burn exclusively wood waste, clean lumber, and yard waste or a combination of these materials and comply with the applicable CAA section 129 opacity limitations and related requirements.

8. Electronic Reporting

The EPA is finalizing, as proposed, a requirement that owners and operators of large MWC units submit electronic copies of required performance test reports, performance evaluation reports, semiannual compliance reports, annual reports, and certain notifications through the EPA’s CDX using CEDRI. Owners or operators must submit performance test results collected using test methods that the EPA’s Electronic Reporting Tool (ERT) supports, as listed on the ERT website at the time of the test, and in the format generated through the use of the ERT or an electronic file consistent with the XML schema on the ERT website. Owners or operators must submit other performance test results in PDF format using the attachment module of the ERT.⁶⁵ Owners or operators must submit performance evaluation results of CEMS measuring relative accuracy test audit (RATA) pollutants in the format generated through the use of the ERT or an electronic file consistent with the XML schema on the ERT website, and must submit performance evaluation results in PDF format using the attachment module of the ERT. Owners or operators must submit certain other notifications in CEDRI. For semiannual and annual reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI.

The final rule also provides extensions for electronic reporting in two specific circumstances: (1) outages of the EPA’s CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports, and (2) force majeure events, which the rule defines as events that have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically.⁶⁶ In both circumstances, the decision to accept

⁵⁸ Federal Plain Language Guidelines: <https://digital.gov/guides/plain-language>.

⁵⁹ 72 FR 13016 (Mar. 20, 2007).

⁶⁰ 72 FR 13016 (Mar. 20, 2007); 89 FR 4257 (Jan. 23, 2024).

⁶¹ 60 FR 65387 (Dec. 19, 1995).

⁶² 42 U.S.C. 7429(e).

⁶³ 89 FR 4258 (Jan. 23, 2024) (quoting 42 U.S.C. 7429(g)(1)).

⁶⁴ 42 U.S.C. 7661a(a).

⁶⁵ See ERT Tool: <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

⁶⁶ See 40 CFR 63.2 (definition of force majeure).

the request for additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

9. Technical and Implementation Corrections

The EPA is finalizing corrections and clarifications to the NSPS and EG that the Agency and stakeholders identified during implementation of the previous regulations as proposed, with minimal revisions to accommodate the new subparts.⁶⁷ Specifically, the EPA includes the proposed clarifications and corrections in the final new subparts VVVV and WWWW and has updated citations and cross-references accordingly.

D. What are the effective and compliance dates of the standards?

The revisions to the NSPS and EG standards that the EPA is promulgating in this action are effective on May 11, 2026.

The EPA is finalizing the compliance dates of the NSPS and EG as proposed. Under the final EG and consistent with CAA section 129(b)(2), revised State plans containing the revised existing source emission limits and other requirements in the proposed amendments are due within one year after promulgation of the amendments. States must submit revised plans to the EPA by March 10, 2027.

The final EG allow existing large MWC units to demonstrate compliance with the amended standards as expeditiously as practicable after approval of a State plan, but no later than three years after the date of approval of a State plan or five years after promulgation of the revised standards, whichever is earlier. Consistent with CAA section 129(b)(2), the EPA expects States to require compliance as expeditiously as practicable. Because we anticipate that several large MWC units will need to retrofit existing emission control equipment and/or install additional emission control equipment to meet the final revised limits, the EPA anticipates that some States may choose to provide the three-year compliance period allowed by CAA section 129(f)(2).⁶⁸

In revising the standards in a State plan, a State may have two options, depending on the performance of the large MWC units in that State. First, a State could include both the 2006 large MWC standards and the new standards in its revised State plan, which would allow a phased approach for applying the new emissions limits. The State plan would clarify that the standards in the 2006 large MWC final rule remain in effect for large MWC units and apply until the compliance date of the revised existing source standards (as defined in the State plan).⁶⁹ Second, a State with existing large MWC units that do not need to improve performance to meet the revised standards could replace the 2006 large MWC final rule standards with the standards in this final rule; follow the procedures in 40 CFR part 60, subpart B and submit a revised State plan to the EPA for approval. If the revised State plan contains only the revised standards (*i.e.*, does not retain the 2006 large MWC final rule standards), the revised standards must be effective immediately for units subject to the 2006 large MWC final rule.

The EPA will revise or replace the existing Federal plan to incorporate changes to the existing source emission limits and other requirements that the EPA is promulgating in this action.⁷⁰ The Federal plan applies to large MWC units in any State without an approved State plan. The final amendments to the EG allow existing large MWC units subject to the Federal plan a maximum of five years after promulgation of the revised standards to demonstrate compliance with the amended standards, as required by CAA section 129(b)(3).

For new sources, the final NSPS requires compliance within six months after promulgation of this final rule, or upon startup of the new MWC, whichever is later. This compliance timeline for new sources is consistent with the requirements of CAA section 129(f)(1).

E. Severability

This final action contains several discrete components, which the EPA

increased use of sorbent that may be needed to comply with the emission limits, but owners will evaluate and use the controls that they determine are necessary for their source.

⁶⁹ All sources currently subject to the 1995 large MWC EG or NSPS will become existing sources once the final revised large MWC standards are in place. See section III.B of this preamble for further discussion.

⁷⁰ See 40 CFR part 62, subpart FFF—Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994.

views as severable as a practical matter—*i.e.*, they are functionally independent and operate in practice independently of the other components. These discrete components are generally delineated by the section headings within this section (section III) and section IV of this preamble. For example, the recalculated MACT floor standards, calculated using 1990's data, are severable from the 5-year review standard.⁷¹ Further, each new or existing source standard for a specific pollutant is severable from the new or existing source standard for any other pollutant. The final rule also includes other revisions to the LMWC NSPS and EG that generally function independently of one another (*e.g.*, changes to startup, shutdown malfunction provisions, alternative percentage reduction standards).

IV. What is the rationale for our final decisions and amendments for the large MWC source category?

For each issue, this section describes what we proposed and what we are finalizing, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. The EPA solicited comment on the proposed rule from January 23, 2024, to March 25, 2024. Specifically, we gathered general comments, additional data, and information regarding developments in practices, processes, and control technologies that reduce pollutant emissions as well as associated costs, feasibility concerns, and other drawbacks. The EPA subsequently reopened the comment period on the proposal for an additional four months, from January 16, 2025, to May 30, 2025. Specifically, we then gathered additional information and documentation on verifiable historic pollutant emission concentration information (*e.g.*, stack test reports, waste characterization reports and continuous emission monitor records) for the source category so we could further assess the proposed MACT requirements, including operation of the control technologies over time. For all comments that this preamble does not discuss, comment summaries and our responses are available in the comment summary and response document in the docket.⁷²

⁷¹ As discussed in section IV.A.4, the EPA is finalizing one standard (50 ppmvd NO_x limit for new sources) as a result of the 5-year review.

⁷² Docket ID No. EPA-HQ-OAR-2017-0183.

⁶⁷ See memorandum entitled *Proposed Regulation Edits for 40 CFR part 60, subparts Cb and Eb: Review of the Emission Guidelines for Existing Sources and New Source Performance Standards: Large Municipal Waste Combustors Voluntary Remedial Response and 5-year Review*, Docket ID No. EPA-HQ-OAR-2017-0183.

⁶⁸ CAA section 129 does not require or authorize the EPA to specify the control technology sources must use to meet a numeric emission limit. The costs are based on assumptions of air pollution control device retrofits, new equipment, or

A. Five-Year Review and Response to the Voluntary MACT Floor Remand for the Large MWC Source Category

1. What did we propose based on the five-year review and voluntary MACT floor remand for the large MWC source category?

a. Emission Limits

In developing the proposed standards, the EPA considered four scenarios for setting new EG and NSPS emission limits and conducted the five-year review under CAA section 129(a)(5). In the first scenario, we considered the MACT floor limits established by the best performing units for each covered pollutant. In a second scenario, we considered the appropriateness of additional beyond-the-floor controls for each covered pollutant. In a third scenario, we evaluated a combination of MACT floor emission limits for some covered pollutants and limits based on technology innovations identified in the five-year review for others. In the fourth scenario, we evaluated a combination of beyond-the-floor emission limits for some covered pollutants and limits based on technology innovations identified in the five-year review for others. As part of the EPA's reevaluation of the MACT floors established in 1995, we first considered the best performing units to establish MACT floor limits and then further considered whether beyond-the-floor controls are appropriate, including by evaluating improvements in pollution controls and associated costs and other drawbacks. Following its reevaluation, the EPA proposed standards resulting from the third scenario, which includes the MACT floor limits (as assessed and described in section IV.A.1.b of this preamble) for all covered pollutants except for NO_x, for which the EPA proposed to implement more stringent emission standards as a result of the five-year review. Tables 2 and 3 of the preamble to the proposed rule present the proposed emission limits.⁷³

b. MACT Floor Assessment

As discussed in sections II.B and III.A.2 of this preamble, the EPA sought and received a voluntary remand of the 2006 revisions to the large MWC regulations to reevaluate the 1995 MACT floors. In this rulemaking, the EPA proposed to recalculate the large MWC MACT floors from its initial analysis in 1995.⁷⁴

While reviewing the data and information originally used to calculate the 1995 MACT floors, the EPA

determined that it did not have sufficient data from that time period to characterize the performance of all units necessary to re-evaluate MACT floors. Accordingly, the EPA proposed to base the calculation of the MACT floors on additional emissions data from sources in the large MWC source category. The EPA also proposed to reevaluate the MACT floors based on the state of the industry at the time the EPA first calculated limits for large MWCs in 1995. The EPA proposed using 1990–1995 performance levels to reestablish MACT floor requirements to acknowledge the steps that large MWC facilities took to reduce emissions following the promulgated 1995 standards and to meet the EPA's obligation to correctly set MACT floor standards for each source category regulated under CAA section 129.

In other words, the EPA accounted for the fact that the 1995 regulations resulted in changes to the operation and APCDs of many large MWCs in a manner that altered the characteristics of the “best” performing units. As explained in the proposed rule, the composition of the industry remained relatively stable between the promulgation of the 1995 MACT floors and the time of our reevaluation. The EPA thus proposed to recalculate the MACT floors for large MWCs based on the population of units operating at the time of the original EG development (*i.e.*, approximately 1990), taking into account the installation of APCDs and other improvements sources made to meet the 1995 standards as based on compliance data reported for the same units from 2000 through 2009. Specifically, the EPA adjusted the initial MACT floors by assigning default control efficiencies to each APCD configuration for each covered pollutant, back-calculated an “uncontrolled” emissions value from the post-retrofit data, and then applied the control efficiencies corresponding to pre-retrofit configurations to estimate emissions that would more accurately represent the performance level of units operating in 1990. The EPA subsequently ranked the best performing units within the source category for each covered pollutant based on the adjusted emissions; analyzed the data to determine the average performance of those units, with appropriate accounting for emissions variability; and proposed MACT floor emission limits.⁷⁵

⁷⁵ In calculating MACT floors, for existing sources, CAA section 129(a)(2) requires that MACT reflect the average emissions limitation achieved by the best performing twelve percent of units in the

The EPA proposed separate methodologies for pollutants having stack test data (Cd, Pb, Hg, PM, HCl, and PCDD/PCDF) and pollutants having CEMS data (CO, NO_x, and SO₂) due to inherent differences in the data (*i.e.*, test run data vs. hourly averages). For each stack test pollutant, we performed a statistical analysis on annual averages of screened run data from the 2000 to 2009 dataset to determine UPL, based on the EPA's most recent UPL template (January 2022). For EG limits, we used average annual test data corresponding to the top 12 percent of units, and for NSPS limits, we used average annual run data for the single best performer in the UPL calculations.⁷⁶ The EPA used the most recent UPL template to conduct the analysis and then rounded up UPL results to two significant figures.

For CEMS pollutants (CO, NO_x, and SO₂), the EPA proposed that the reported CEMS data already accounted for emissions variability because the available data consisted of the reported annual peak 24-hour or four-hour average selected from the year's CEMS data and represents only the highest end of readings for the year. We therefore reevaluated limits for CEMS pollutants by averaging annual peak CEMS data corresponding to the top performers for each pollutant and applicable subcategory. For NO_x and CO, we calculated separate NSPS limits for only two subcategories, MB/WW and RDF. For NSPS purposes, the EPA assumed that the overarching MB or RDF subcategories will represent performance of any units built in the future. We rounded up the resulting averages for CEMS pollutants to two significant figures. In cases where results were greater (less stringent) than the current large MWC EG limit, we proposed to retain the current limit as the MACT floor limit.

The proposed EG and NSPS MACT floor limits for stack test pollutants and CEMS pollutants and additional information regarding the EPA's MACT floor assessment are available in section III.A.2 of the preamble to the proposed rule.⁷⁷

source category; for new sources, MACT limits must be no less stringent than the emissions control achieved by the best performing similar unit.

⁷⁶ For PCDD/PCDF, the top performing unit only had enough reported data to derive two annual averages. In this case, because the UPL template can only accommodate data sets of $n \geq 3$, the EPA used unit run data instead of the test average in the UPL calculation.

⁷⁷ *Id.*

⁷³ 89 FR 4251 (Jan. 23, 2024).

⁷⁴ *Id.*

c. Beyond-the-Floor and Five-Year-Review Results

For assessing beyond-the-floor options in the reevaluation of the 1995 standards, in conjunction with addressing the remand of the original rule's MACT floors, the EPA proposed to represent the beyond-the-floor emission limits for existing sources numerically by assuming that the beyond-the-floor option for existing sources is the new source MACT floor (emissions control achieved in practice by the best controlled similar unit, as required by CAA section 129(a)(2)) which is more stringent than the existing source MACT floor (an average of a broader range of best performing units, also as required by CAA section 129(a)(2)).

As part of the five-year review pursuant to CAA section 129(a)(5), to assess additional control options, the EPA evaluated the performance of, and variability associated with control measures affecting emissions performance at large MWC sources (including the installed emissions control equipment) and recent developments in practices, processes, and control technologies along with associated costs and other drawbacks. As part of this review, the EPA considered at proposal developments from the Good Neighbor Plan rulemaking, which found cost-effective advances in NO_x control technologies that are available for the large MWC sector.⁷⁸ The EPA proposed NO_x standards, consistent with those finalized in the Good Neighbor Plan as the CAA section 129(a)(5) five-year review options for consideration combined with either the MACT floor or beyond-the-floor controls for the other covered pollutants. Specifically, the EPA's third scenario consisted of evaluating MACT floor emission limits for all covered pollutants except NO_x, which the EPA proposed as a five-year review emission limit. The EPA's fourth scenario consisted of evaluating beyond-the-floor emission limits for all pollutants except NO_x, which the EPA proposed as a five-year review emission limit. Based on the EPA's analyses and the findings of the Good Neighbor Plan, the EPA selected at proposal the MACT floor plus five-year review approach (scenario three) as the most cost-effective means to maximize emissions reductions.

In the proposed rule, the EPA found that the 14,200 tpy emissions reductions achieved by the third scenario (the combination of MACT floors for all

covered pollutants except for NO_x, which the EPA proposed updating per the five-year review) are significantly greater than the reductions achieved by the first scenario (updates to the MACT floors alone), by approximately 5,020 tpy. The 16,800 tpy emissions reductions achieved by the fourth scenario (the combination of beyond-the-floor limits with the updated NO_x standard under the five-year review) equal 2,600 tpy in incremental emissions reduction above those achieved by scenario three. In reviewing the cost effectiveness of the third and fourth scenarios, the EPA found that the third scenario included a cost effectiveness of approximately \$7,000 per ton emissions reduction of regulated pollutants, while the fourth scenario resulted in a cost effectiveness of approximately \$35,000 per ton emissions reduction of regulated pollutants. As such, the EPA proposed that the third scenario—reevaluated MACT floor limits coupled with the five-year review for NO_x standards—provided the most cost-effective means to maximize emissions reductions and was therefore the most appropriate set of emission standards.

In the proposal, through selection of the third scenario, the combination of MACT floor emission limits for all covered pollutants except for NO_x with the five-year review emission limit, the EPA recognized that owners or operators have retrofitted most sources with APCDs that were state of the art for MWCs in the 1990s (*i.e.*, spray dryers, fabric filters, and activated carbon injection) for covered pollutants other than NO_x. The EPA also believed that the NO_x control retrofits that are currently available—but were not in the 1990s—for most existing large MWCs appear to be cost-effective (approximately \$5,000 to \$6,000 per ton) and technically feasible for several existing large MWC units currently operating in the U.S. More details on the cost effectiveness of the options considered are in the memorandum entitled *Compliance Cost Analyses for Large MWC Final Rule Amendments* in the docket for this rulemaking.

The EPA proposed the 110 ppmvd (24-hour) NO_x limit consistent with the NO_x limit finalized under the Good Neighbor Plan based on the application of ASNCR or Covanta LN™ NO_x technology, finding that this limit was cost effective for existing units outside of the Ozone Transport Region that the Good Neighbor Plan did not cover; separately, in the Good Neighbor Plan, the EPA found that the limit was cost-effective for units inside of the Ozone

Transport Region.⁷⁹ Unlike the Good Neighbor Plan, the EPA did not propose a mechanism for existing large MWCs to request a case-by-case emission limit based on a demonstration that application of ASNCR and Covanta's LN™ Technology or any other NO_x emission reduction technologies or measures is not technically feasible.

For all new units, the EPA proposed a NSPS NO_x limit of 50 ppmvd (measured in 24-hour period). The EPA based this limit on the permitted NO_x limit for the only facility currently using SCR technology with an air-to-air heat exchanger providing flue gas reheat prior to entering the SCR reactor to represent the five-year review standard for new sources. The EPA determined that owners or operators only reasonably can apply this design during construction of the unit, so retrofitting SCRs to other existing units would be technically infeasible and/or very costly if provision of reheat requires use of a supplemental burner.

Although the EPA considered other potential improvements that could be technically feasible for large MWCs as part of the five-year review, including circulating fluidized bed scrubbers (CFBS) for acid gas control and oxidation catalysts for CO control, we did not propose standards based on the performance improvements these technologies might yield. The EPA determined that retrofitting existing large MWC units with CO oxidation catalysts would be prohibitively costly, as accommodating an entirely new piece of equipment in the APCD system would require new facility footprint space and flue gas routing. For CFBS, the EPA acknowledged that although theoretically owners or operators could replace existing acid gas control devices with a CFBS to achieve slightly better acid gas control, the EPA lacked data demonstrating technical feasibility for new or existing MWC units.

2. How did the proposed emission limits and MACT floor assessment change for the large MWC source category?

As introduced in section III.A of this preamble, the EPA has revised its MACT floor assessment for the EG and NSPS in response to new data and associated comments since the proposal. The EPA is finalizing the same fundamental analytical approach as proposed, specifically using separate methodologies for pollutants with stack test data (Cd, Pb, Hg, PM, HCl, and PCDD/PCDF) and pollutants with CEMS data (CO, NO_x, and SO₂). For each stack

⁷⁸ 88 FR 36654 (June 5, 2023).

⁷⁹ *Id.*

test pollutant, the EPA performed a statistical analysis on annual averages of screened run data to determine a UPL. For CEMS pollutants, we averaged peak annual values, maintaining its stance that the data in this form already account for emissions variability. For EG limits, we used data corresponding to the top 12 percent of units, and for NSPS limits, we used data for the single top performer, consistent with CAA section 129(a)(2).

The emissions test data that the EPA used for the UPL analyses for stack test pollutants includes the 2000 through 2009 compliance data and newly received data from 1990 through 1995. The EPA made minor revisions to the 2000 through 2009 data set based on comments received. The 1990s data came from test reports and related documents submitted via email to the EPA in 2024 and 2025 by the WTEA or from attachments to comments submitted to the docket. The EPA assessed the performance of large MWCs operating in 1990 primarily based on the 1990s data. However, these data accounted for 75% of units operating in 1990, so we filled data gaps, where possible, based on adjusted emissions data from the 2000s dataset. Similar to the approach used at proposal, we accounted for performance improvement over time by adjusting the 2000 through 2009 emissions data to reflect 1990s performance. In the revised analysis, the EPA used paired 1990s and 2000s data to inform its adjustment factor development based on combustor/APCD combinations rather than relying on default APCD efficiencies alone, as the EPA did at proposal.

For the NSPS analysis for stack test pollutants, the EPA revised the UPL approach to address variability concerns raised by commenters regarding the limited number of data points available for the top performers. For every stack test pollutant, only one test was available for the top performer. To account both for more recent operational practices and waste characteristics that a single test from the 1990s may not sufficiently characterize and for the fact that we could not obtain additional years of data from the early 1990s, we assessed the distribution and variance of 2000s test averages (*i.e.*, data from several years) for the same performer. In all cases, the 2000s data distribution matched the 1990s distribution, and the EPA combined variance of the 2000s data with the variance of the 1990s data in the UPL calculation.

For CEMS pollutants, the EPA made no changes to the MACT floor

calculation methodology; however, revisions to the dataset as described in this section yielded a new EG limit for SO₂ and a new NSPS limit for CO for mass burn waterwall units. Further details regarding the revised MACT floor assessment are provided in the LMWC MACT Floor memorandum for the final rule.⁸⁰

For the five-year review and beyond-the-MACT floor approaches, the EPA is not finalizing our determinations as proposed for existing units, meaning that the EPA is not basing the NO_x standard on the findings of our five-year review. Tables 2 and 3 of this preamble present the resulting final emission limits.

3. What key comments did we receive on the emissions limits, MACT floor assessment, beyond-the-floor, and five-year review, and what are our responses?

Comment: The EPA received numerous comments on the proposed control factor adjustment approach to emulate data from large MWCs that were operating in 1990 for reevaluating the original MACT floor. Commenters suggested that the EPA's proposed approach did not adequately characterize operational and waste composition differences from the 2000–2009 timeframe to the early 1990s and urged the EPA to use actual data from the 1990s to better inform any adjustments or calculations. Several commenters provided emission tests, spreadsheets, or test report summaries with emissions test information for a portion of the large MWC units in operation in 1990, as well as for some units that came into operation after that time but had performance data from the early 1990s. These industry commenters also provided some emissions test summary data from units within the 2000–2009 timeframe, consisting mainly of test averages for years and units for which we did not already have data in the 2000–2009 database. Other commenters argued that the EPA should not adjust the emissions data to reflect less protective performance and should not limit the reevaluation of the MACT floor to units operating in 1990, stating that this approach ignores better equipment and performance exhibited by newer large MWCs and that the five-year review requires use of newer units' data.

Response: The EPA agrees with commenters' arguments that adjusting

post-compliance data based purely on expected APCD performance may not adequately reflect differences in waste composition or operational improvements from the 1990s to the 2000–2009 compliance data in the EPA's database. The EPA therefore reopened the comment period for commenters to compile and submit available data from the 1990s. The data received during the additional comment period significantly increased the amount of information available to evaluate performance in the 1990s, especially in cases where no data was available for a unit. The additional data also allowed the development of a more robust adjustment factor to apply to 2000–2009 compliance data.

The EPA assessed the performance of large MWCs operating in 1990 primarily based on the 1990s data. However, these data accounted for 75% of units operating in 1990, so the EPA filled data gaps, where possible, based on adjusted emissions data from the 2000s dataset. Similar to the approach used in the proposal, the EPA accounted for performance improvement over time by adjusting the 2000s emissions data to reflect 1990s performance. In the revised analysis, we used paired 1990s and 2000s data to inform its adjustment factor development on combustor/APCD combinations rather than relying on default APCD control efficiencies alone, as we did at proposal.

For the NSPS analysis for stack test pollutants, the EPA revised the UPL approach to address variability concerns that commenters raised regarding the limited number of data points available for the top performers. For every stack test pollutant, only one test was available for the top performer. To account both for more recent operational practices and waste characteristics that a single test from the 1990s may not sufficiently characterize and for the fact that we could not obtain additional years of data from the early 1990s, we assessed the distribution and variance of 2000s test averages (*i.e.*, data from several years) for the same performer. In all cases, the 2000s data distribution matched the 1990s distribution, and we combined the variance of the 2000s data with the variance of the 1990s data in the UPL calculation.

For CEMS pollutants, the EPA made no changes to the MACT floor calculation methodology; however, revisions to the dataset yielded a new EG limit for SO₂ and a new NSPS limit for CO for mass burn waterwall units.

The EPA disagrees with some commenters' argument that using data from more recently constructed units to

⁸⁰ See memorandum entitled *MACT Floor Calculations for Large Municipal Combustor Units—Final Rule*, available at Docket ID No. EPA–HQ–OAR–2017–0183.

establish the MACT floor is appropriate here, as that suggested approach would characterize best performers that were already in compliance with the existing MACT standards. The goal of the remand is not to calculate MACT on top of the existing MACT but to reevaluate the original standards to ensure they appropriately reflect MACT when initially promulgated.⁸¹ Thus, the analysis continues to reflect only units that were operating in 1990 because the EPA is reevaluating this original MACT floor as part of this rulemaking. Further, we have not changed our approach to using the UPL for calculating stack test pollutant emission limits and the average of the highest annual values for the best performers for the CEMS pollutants (CO, NO_x, SO₂), although we have reevaluated the data for the units identified in the proposal as best performers.⁸² Additional specific comments on various aspects of the emission limit calculation approach, such as use of the UPL, subcategorization and other approaches to addressing variability are in section 4.0 of the Comment Response Document in the docket for this rulemaking.

Comment: Commenters argued that the proposed new source limits do not consider the variability of waste streams from different communities as well as seasonal variation within a community. One commenter proposed that the EPA base the variance on the top 12% of units identified for development of the MACT floors for existing units to provide a more representative estimate

of variability, given the lack of actual data. Other commenters stated that the EPA's UPL approach for stack test pollutants limits the data set to only a handful of tests and leads to an extremely high calculation of variability under the extreme (99th percentile) UPL employed. These commenters asserted that in the past, the EPA has instead set "beyond-the-floor" limits for units where the 99th percentile UPL for the single "best" unit was less stringent than the UPL for the average of the top 12 percent.

Response: The EPA recognizes that there is some merit to the argument that a single emissions test taken more than 30 years ago may not accurately characterize waste and operational variability that a large MWC unit may see on a day-to-day basis. Further, we acknowledge that, after extensive industry efforts to collect legacy emissions data from the 1990s, the best performing units each only have a single emissions test reflecting performance at that time, and there are not additional tests from that timeframe available that we could use to gauge waste variability impacts in the 1990s. To address these commenters' concerns, we have reviewed the available 2000–2009 data for the best performing units, for which several years of data are available. The EPA compared the variance observed for the best performing units' 1990s data and 2000s data and found them to be the same distribution type and so we replaced the variance from the single 1990s emissions test with the variance observed from the multiple year 2000s data set available for the best performer in the UPL calculation. The resulting limits therefore incorporate variance observed over multiple years, which presumably would incorporate waste variance, and apply this variance to the UPL calculation using 1990s emissions data. The resulting limits are more stringent than the reevaluated EG MACT

floors, so beyond-the-floor emission limits suggested by commenters are not necessary for the stack test pollutant limits calculated using UPL methodology.⁸³

Comment: Commenters questioned the data that the EPA used to calculate the NSPS CO emission limit for MB/WW units and questioned the validity of the low CO emissions reported for the Wheelabrator Bridgeport large MWC. Commenters added that the proposed 16 ppmvd emission limit is unachievable.

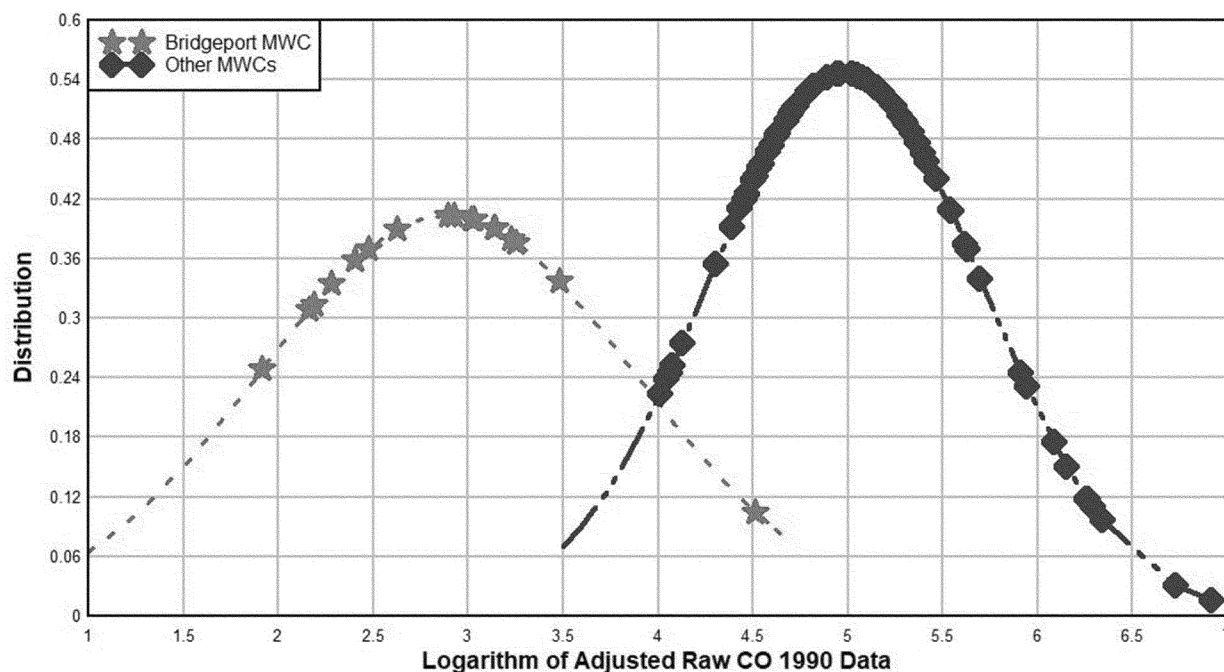
Response: Acknowledging differences in the reporting method for the Wheelabrator Bridgeport data from the data submitted for other sources, the EPA assessed whether it was appropriate to consider the Wheelabrator Bridgeport data as part of the larger dataset that included other submissions. The EPA performed a paired t-test analysis, using ProUCL software, of the three Wheelabrator Bridgeport units against the rest of the best performers in order to determine whether these units are in fact representative of the best performers or whether they are a statistically distinct dataset. The paired t-test indicates that, at the 99.9 percent confidence coefficient, there are two distinct populations of data—those from Wheelabrator and those for the other units. Figure 1 depicts the two distinct data sets.

Figure 1. Probability Distribution Function of Adjusted Raw CO 1990 Data

⁸³ To represent beyond-the-floor emission limits numerically, we assumed the new source MACT floor (*i.e.*, emissions control achieved in practice by the best controlled similar unit) as the emission limit applied to existing sources. From a cost-effectiveness viewpoint, the beyond-the-floor/5-year review scenario was five times more costly with less incremental emissions reductions of regulated pollutants. For further discussion of the rationale, see section III.A.3 of the preamble to the proposed rule.

⁸¹ See *U.S. Sugar Corp.*, 113 F.4th 984 (upholding the EPA's decision to rely on original dataset to correct prior MACT standards errors and recalculate MACT floor during remand); *cf. Med. Waste Inst. Energy Recovery Council v. EPA*, 645 F.3d 420 (D.C. Cir. 2011) (holding that the EPA was reasonable in its decision to use post-compliance data to reset MACT floor during remand after concluding that the prior dataset was flawed).

⁸² See comment and response below on NSPS CO emission limit for further discussion.



There are no known operational differences that would cause the Wheelabrator Bridgeport units to be distinct from the rest of the best performers. Wheelabrator Bridgeport did not report emissions that occurred during SSM, which is inconsistent with the new standard (which includes periods of SSM), while other units included SSM data. While emissions of covered pollutants are typically low during periods of startup and shutdown because no waste has been added to the large MWC, this is not always true of CO because low emissions of CO in a combustor is an indicator of good combustion efficiency. The goal of warmup and startup in a combustor is to establish steady-state, maintainable good combustor efficiency to begin normal operations; before the combustor reaches steady-state, the CO emissions can vary widely with the changes in the combustion environment characteristic of warmup, startup, and shutdown. For large MWCs, annual maximum average CO emission concentrations frequently occur during periods of SSM.⁸⁴ The EPA finds it most likely that the low reported concentrations in data from the Wheelabrator Bridgeport units exclude emissions during periods of SSM, which other facilities include in their reported data. We attribute this likely exclusion to the reporting requirements of the applicable rule. Specifically, although

the NSPS and EG, subparts Eb and Cb only require regulated facilities to report the maximum average during the year, some State and local agencies require the reporting of all periods of operation, and others require reporting only during normal operations. Because the EPA therefore determined that the Wheelabrator Bridgeport data from the CEMS dataset are nonrepresentative and not appropriately comparable to data from units whose reported emissions data included SSM periods, we removed the Wheelabrator Bridgeport data from the dataset and redetermined the best performers and the associated MACT floor. This approach resulted in a NSPS CO emission limit of 76 ppmvd and an EG SO₂ emission limit of 22 ppmvd, because the EPA had identified the Wheelabrator Bridgeport units as the best performer for CO and within the top 12 percent of best performers for SO₂ at proposal and these data were excluded from the dataset in this final rule.

Comment: Commenters both supported and criticized the five-year review finding that there are cost-effective methods such as ASNCr technology and Covanta's LNTM Technology, available for existing units to meet a 110 ppmvd emission limit for NO_x. Some commenters suggested a more stringent NO_x limit based on the application of hybrid selective noncatalytic reduction (SNCR) and SCR.

Response: The EPA is not finalizing the proposed NO_x emission limit of 110 ppmvd for existing large MWCs due primarily to the large capital expense

(more than \$412 million) that the EPA reasonably anticipates for the existing large MWC source category as a whole. As noted previously, the stay of the Good Neighbor Plan means costs to comply with this standard would be higher than previously estimated and the emissions reductions estimates are more uncertain than previously believed. At proposal, the EPA excluded units that we expected the Good Neighbor Plan to cover from the capital cost estimate, which was \$257 million for the remaining units. The inclusion of those previously excluded units increases the total estimated capital cost to \$412 million. The EPA recognizes that this industry provides public services, and these large capital expenditures on the industry could be challenging, especially for municipalities that own large MWCs or parent companies that operate multiple large MWC facilities.

In addition, the EPA recognizes significant uncertainty in the emission reductions and cost effectiveness estimates from proposal, based on a likely overestimation when using the average of peak 24-hour CEMS data to calculate baseline NO_x emissions. We are, however, maintaining the proposed 50 ppmvd NO_x limit for new sources within the NSPS based on the availability and continued operation of a large MWC unit equipped with SCR controls.⁸⁵ Regarding SNCR-SCR hybrid

⁸⁴ This is why we are finalizing that CEMS data collected during warmup, startup, or shutdown periods will be averaged at stack oxygen content and not corrected to seven percent oxygen, as are data during normal operations.

⁸⁵ See memorandum entitled *Clean Air Act Section 129(a)(5) 5-Year Review for the Large Municipal Waste Combustor Source Category*.

technologies, limited information is available about application of these technologies, and no information is available about long-term performance of these controls applied to municipal waste combustors. However, the final standards do not specify the controls that owners and operators must use to meet the emission limits for NO_x, and owners or operators may investigate whether an SNCR–SCR hybrid system is a viable option for their emission control needs.

4. What is the rationale for our final approach?

The underlying approach to and premise for our reevaluation of the 1995 MACT floors as described in the proposed rule remains the same. As discussed in sections II.B and III.A of this preamble and in the proposed rule, the EPA has recalculated the large MWC MACT floors using actual 1990–1995 test data in order to correct the EPA’s 1995 analysis of MACT floors to account for case law questioning standards based on State-issued permit levels without evidence that the permit levels reflect the performance of the best performing sources. In recalculating the 1995 MACT floors to correct errors in our initial analysis, the EPA is assessing the state of the industry at the time that we first calculated limits for large MWCs. Given the history of limited data availability of this source category, the EPA views this approach as appropriate to establish MACT floors that reflect the emission levels actually achieved by the best performing sources using the MACT before sources in the category first complied with the 1995 standards. The EPA determined that utilizing 1990s performance levels to reestablish MACT floor requirements appropriately balances competing interest in this rulemaking, by recognizing on one hand that large MWC facilities have taken steps to reduce emissions since the EPA first promulgated 1995 standards, and on the other hand the EPA’s obligation to correctly set MACT floor standards for each source category regulated under CAA section 129. At proposal, the EPA determined that it did not have sufficient data from the 1990s to

characterize the performance of all units during that time period and that it was necessary to utilize a different dataset to recalculate new MACT floors from the one used to set the initial MACT floors in 1995. Emissions data received during the public comment periods allowed the EPA to develop a 1990–1995 data set, which the EPA used in conjunction with the 2000–2009 compliance data to better reflect 1990s performance when reevaluating the MACT floors for the final rule.⁸⁶

In the related context of hospital, medical, and infectious waste incinerators (HMIWI) also regulated under CAA section 129, the EPA issued a rule on remand from the D.C. Circuit to further explain our reasoning in determining MACT floors for new and existing HMIWI.⁸⁷ In that situation, after the original MACT floors went into effect for HMIWI, approximately 94 percent of HMIWI units shut down, and an additional three percent of units obtained exemptions from the regulations.⁸⁸ Because of these significant changes in the regulated industry, we were not confident in using much of the same data used to set the original MACT floors, in part because data were unavailable from the many units that shut down following promulgation of the original standards. The EPA instead found “the best course of action [was] to re-propose a response to the remand based on data from the 57 currently operating HMIWI.”⁸⁹ Subsequently, in reviewing the EPA’s recalculated MACT floors for HMIWI, the D.C. Circuit found that “[w]hen the EPA determined that its regulation rested on unreliable data and that it had to reset the floors, the Agency was functionally regulating on a blank slate even though the regulation continued to remain on the books.”⁹⁰

The EPA is also functionally establishing new MACT floors for large MWCs on a blank slate because the 1995 MACT floors were originally calculated using a data set—state air permitting levels—that was not appropriate absent evidence of actual emissions. Unlike in the HMIWI rulemaking, however, there have not been significant retirements in the large MWC industry since we first introduced standards in 1995, and the

industry today consists largely of the same units that were operating before the original MACT floors went into effect. Instead of retirements, the majority of the industry installed APCD and made other improvements to meet the 1995 standards. Because the industry today consists of largely the same units that were operating in 1995, we are able, as proposed, to calculate revised MACT floors for large MWCs that are appropriate for the current fleet, based on the industry’s 1995 performance level.

Sections III.A.2 and IV.A.2 of this preamble explain the data and methodology the EPA used to reevaluate the MACT floors for large MWCs. In general, the EPA has used the 1990s emissions data to the fullest extent possible considering the documentation available for the data. For example, the EPA used emissions concentration data extracted from emission test reports, test report executive summaries, and State-provided compliance data that contained sufficient information to convert the data into useable and consistent units of measure (*i.e.*, mg/dscm at seven percent O₂) for use in the UPL calculations in lieu of adjusting 2000–2009 data, as done at proposal. In calculating the MACT floors, we did not use data that was provided in the form of emission factors (*e.g.*, lb/ton MSW) or emission rates (*e.g.*, lb/hr) and that lacked sufficient supporting test data to convert to consistent units of measure without use of default F-factors or heat input rates. Recognizing that 1990s data were unavailable for some of the units in operation in 1990, the EPA filled data gaps by adjusting the 2000–2009 data for each of the units as necessary using data adjustment factors. Unlike at proposal, the EPA used paired 1990s–2000s data for similar combustor types and APCD configurations to develop the data adjustment factors. These factors thus reflect all differences in waste and operational methods from the 1990s and 2000s, and the EPA was able to better adjust the 2000s data accordingly to approximate performance in the 1990s when earlier data are unavailable for specific units.

The EPA did not change the UPL calculation methodology for the EG MACT floor standards from proposal, but recognized that the best performers used for calculating the NSPS standards for stack test pollutants only had one test available from the 1990s. The EPA acknowledged that municipal waste streams are a uniquely variable fuel source with numerous factors that can directly impact emissions (such as seasonal changes in waste composition or consumer habits), and one stack test

available in docket EPA–HQ–OAR–2017–0183. Also note that the Good Neighbor Plan supporting documentation came to similar conclusion: “[T]he study concluded that there are significant space considerations with SCR system installation which can be managed in a cost effective way in a new development, but which make retrofit installation very costly and complex.” *Municipal Waste Combustor Workgroup Report* (Revised May 2023), Ozone Transport Commission Stationary and Area Sources Committee: https://otcair.org/upload/Documents/Reports/OTC%20MWC%20report%20revised%205_2023.pdf.

⁸⁶ The EPA further notes that this approach is consistent with the congressional design of CAA section 129, which envisioned the calculation and implementation of MACT floors for this source category through rulemaking by 1990. *See* 42 U.S.C. 7429(a)(1)(B).

⁸⁷ 74 FR 51368 (Oct. 6, 2009).

⁸⁸ 72 FR 5510, 5518 (Feb. 6, 2007).

⁸⁹ 73 FR 72962, 72970 (Dec. 1, 2008).

⁹⁰ *Med. Waste Inst. & Energy Recovery Council*, 645 F.3d 420.

may not sufficiently reflect this inherent waste variability. Considering that sources collected these data three decades ago and that obtaining additional data from the 1990s to evaluate variability at the unit over that time period was not possible, we reviewed the 2000–2009 data available for the best performers. The EPA compared the variance and population distribution of the sole 1990s test data to the multiple years of data available from the 2000s for the best performers and found them to be of the same distribution type. Therefore, to ensure that longer-term waste variability is adequately addressed in this unique situation, we incorporated the variance data from the 2000s data for the best performers into the UPL equations, using the 1990s emissions data to develop the NSPS MACT floor emission limits.

Likewise, the EPA analyzed the data from the CO best performer at proposal (CEMS data from Wheelabrator Bridgeport units) and, as described in section III.A.2 of this preamble, determined that these data are statistically unique from the remainder of the large MWC fleet's data due to the probable non-reporting of data during SSM. Therefore, the EPA has excluded the Wheelabrator Bridgeport CEMS data from the CEMS pollutant MACT calculations.

Finally, after review of comments and considering the stay of the Good Neighbor Plan, the EPA is not finalizing the results of our five-year review as proposed. Mainly, the EPA is setting the emission standards for NO_x at the reevaluated MACT floor level instead of the 110 ppmvd limit based on the five-year review proposed for large MWCs in light of the then-effective Good Neighbor Plan and the performance observed by some existing large MWC units operating in the U.S. currently. While the standards do not prescribe a particular control technology, as we discuss in the preamble to the proposed rule, existing sources have used ASNCR and Covanta's LNTM technologies to achieve the 110 ppmvd performance. We evaluated the costs associated with this performance level,⁹¹ and we have the following concern: application of these controls to the remaining population of existing large MWCs would result in an expected \$411.6 million capital expenditure by the large MWC sector, which in turn owners or operators potentially would pass forward, resulting in tipping fee

increases or potential unit closures for municipalities that utilize large MWCs for the MSW disposal needs.⁹²

The EPA does not see this situation for large MWC sources that have yet to commence construction. As noted at proposal, a facility designed with SCR NO_x controls has been operating successfully for several years. Nothing in the comments suggests that future large MWC unit construction could not do the same. Therefore, we are maintaining the proposed 50 ppmvd NO_x limit for NSPS units. Specific comments on and associated responses to comments on the emission limit calculation and 5-year review methodology and results are provided in the Comment Response Document in the docket for this rulemaking.

B. Startup, Shutdown, and Malfunction

1. What did we propose pursuant to SSM provisions for the large MWC source category?

The EPA proposed revisions to the SSM provisions of the large MWC NSPS and EG to ensure that these provisions are consistent with the D.C. Circuit's decision in *Sierra Club*. In that decision, the court vacated an SSM exemption in a CAA section 112 regulation after concluding that, pursuant to the definition of "emission standard" and "emission limitation" in CAA section 302(k), emissions standards or limitations under CAA section 112 must apply continuously and that the SSM exemption violated the CAA's requirement.⁹³ The EPA proposed that the reasoning in *Sierra Club* applies equally to CAA section 129 because the definition of "emission standard" in CAA section 302(k) also applies to emission standards and limitations established pursuant to CAA section 129.

The EPA did not propose a separate emission standard for large MWC units during periods of startup and shutdown. We determined that large MWC units would be able to meet the emission limits during periods of warmup and startup because most units use natural gas or clean distillate oil to warm up the unit and do not add waste until the unit has reached combustion temperatures during a brief startup period. Emissions from burning natural gas or distillate fuel oil would generally be significantly lower than from burning solid wastes, for most pollutants, specifically those where owners or operators measure compliance by using stack tests (e.g.,

Cd, Pb, Hg, PM, PCDD/PCDF, and HCl). Further, because we accounted for emissions variability and proposed appropriate averaging times to determine compliance with the revised MACT standards, we believed we adequately addressed any minor variability that may occur during startup or shutdown.

The EPA also proposed to eliminate the exclusions of periods of warmup, startup, and shutdown from CEMS data averaging calculations present in the 1995 large MWC rules for NO_x, SO₂, and CO and replace them with a monitoring and compliance demonstration approach used in the more recent CAA section 129 rulemaking for CISWI NSPS and EG.⁹⁴ We proposed that owners or operators must collect and report CEMS data whenever the large MWC unit is operating. Periods when the combustor is operating but owners or operators are not recording monitoring data due to monitor malfunctions may be considered deviations.⁹⁵ We proposed that owners or operators flag CEMS data collected while the large MWC unit is warming up, starting up, and shutting down as warmup, startup, or shutdown period data. We proposed that owners or operators must use the CEMS data for the warmup period and up to three hours of allowable startup or shutdown time per occurrence to calculate rolling or block average values but average these at stack oxygen content instead of at a seven percent O₂ diluent cap. We requested comment on whether we should adopt a 30-day hourly rolling average for demonstrating compliance for pollutants measured using continuous monitoring, similar to provisions that the EPA has promulgated in many recent combustion standards, such as in CISWI, the Mercury Air Toxics Standards, and the National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters.⁹⁶

Periods of startup, normal operations, and shutdown are predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures

⁹⁴ 84 FR 15846 (Apr. 16, 2019).

⁹⁵ This excludes periods of system breakdowns, repairs, and required routine monitor calibrations or quality assurance/quality control periods, according to 40 CFR 60.13(e).

⁹⁶ Mercury Air Toxics Standards (40 CFR part 63, subpart UUUU); Commercial and Institutional Boilers and Process Heaters (40 CFR part 63, subpart DDDDD).

⁹¹ See memorandum entitled *Compliance Cost Analyses for Large MWC Final Rule Amendments*, Docket ID No. EPA-HQ-OAR-2017-0183.

⁹² See *id.*

⁹³ 551 F.3d 1028 (vacated the SSM exemptions that were codified at 40 CFR 63.6(e)(1), (f)(1) and (h)(1)).

of emissions control, process, or monitoring equipment.⁹⁷ The D.C. Circuit in *U.S. Sugar Corp.* upheld the EPA's position that CAA section 112 does not require the Agency to include emissions that occur during periods of malfunction when developing CAA section 112 MACT standards.⁹⁸ We proposed that the reasoning in *U.S. Sugar Corp.* applies equally to section CAA 129 standards given the similarities between the section 112 and 129 standard setting criteria.

2. How did the proposed startup, shutdown, and malfunction provisions change for the large MWC source category?

The EPA is finalizing the proposed revisions to the SSM provisions of the NSPS and EG. We received comments both supporting and opposed to the proposed approach, but none presented sufficient information to cause us to determine that the approach proposed would be unachievable for large MWC units or otherwise as inappropriate. Moreover, in *Environmental Committee of the Florida Electric Power Coordinating Group, Inc. v. EPA*, the D.C. Circuit recognized that similar to CAA section 112, CAA section 129(a)(1)(A) requires the use of "emission limitations" consistent with the CAA section 302(k) definition.⁹⁹ This further supports finalizing the proposed revisions to the SSM provisions consistent with the D.C. Circuit's decision in *Sierra Club*.

We note that large MWC units operating in Florida have operating permits with practically the same requirements for startup and shutdown events as those the EPA proposed. For example, the Covanta Lake II, Inc. facility has limits that apply during startup and shutdown but "[t]hese limits do not utilize any diluent correction."¹⁰⁰ Specific comments and associated responses to the SSM provision revisions are in the Comment Response Document in the docket for this rulemaking.

C. Other Changes to the Large MWC EG and NSPS

1. Changes to the Applicability Date of the 1995 Large MWC EG and NSPS

a. What did we propose regarding applicability dates for the large MWC source category?

The EPA proposed new applicability dates for determining whether units are "existing" or "new" sources. Specifically, we proposed that large MWC units that are currently subject to the NSPS would become existing sources under the proposed amended standards and subject to the revised EG by the applicable compliance date for the revised guidelines. However, those units would continue to be NSPS units subject to the 1995 large MWC final rule until they become subject to the amended existing source EG. We proposed that large MWC units that commence construction after the date of the proposal, or for which a modification is commenced on or after the date six months after promulgation of the amended standards, would be new units subject to the NSPS emission limits. Units for which owners or operators commence construction or modification prior to those dates would be existing units subject to the proposed EG.

As discussed in section III of this preamble, the EPA proposed to reserve 40 CFR part 60, subpart Ea standards, which apply to units for which construction commenced after December 20, 1989, and on or before September 20, 1994. The EPA proposed that any units that meet subpart Ea applicability would become existing units subject to the EG once implemented through a State or Federal plan.

b. How did the proposed revisions to the applicability dates change for the large MWC source category?

The EPA did not receive comments on the proposed resetting of the applicability dates, so we are finalizing these revisions as proposed. However, as noted earlier in the preamble, we recognize that the Agency may need subparts Cb and Eb at a future date once all large MWC units are complying with the requirements of subpart WWWW through an approved State plan or the Federal Plan. Therefore, we intend to reserve all three subparts (40 CFR part 60, subparts Cb, Ea, and Eb) in a future rulemaking once all large MWC units are in compliance with the requirements of 40 CFR part 60, subpart WWWW via either State plan or Federal plan means of implementation.

2. Changes to Alternative Percent Reduction Standards for Hg, HCl, and SO₂, and Removal of the Emissions Averaging Allowance for NO_x

a. What did we propose regarding changes to alternative percent reduction standards for the large MWC source category and emissions averaging allowances for NO_x?

The EPA proposed to remove all alternative percent reduction standards that the original 1991 final rule allowed, including the 85 percent reduction allowed for Hg (NSPS and EG), the 95 percent allowed for HCl (NSPS and EG), and the 80 percent (NSPS) and 75 percent (EG) allowed for SO₂. We proposed to remove the alternative standards based on limited data available in the large MWC emissions database to evaluate for the alternative percent reduction standards and to provide a numeric concentration limit for these pollutants, which would prevent situations where a different concentration of covered pollutants is emitted from facility to facility or unit to unit.

The EPA also proposed to remove the NO_x emissions averaging alternative provided in the EG.¹⁰¹ We determined that owners or operators rarely use this emissions averaging alternative and proposed that it is incompatible with the NO_x emissions standards established in the Good Neighbor Plan, which were considered as part of the five-year review process as discussed in sections III.A and IV.A of this preamble.

b. How did the proposed revisions to the alternative percent reduction standards change for the large MWC source category?

After considering public comments and upon further review, the EPA is not finalizing the proposed removal of the alternative percent reduction standards allowed in the existing NSPS and EG. Instead, we are finalizing recalculated alternative percent reduction standards based on additional 1990–1995 removal efficiency data for the best performing units used in the re-evaluated MACT standards for Hg, HCl and SO₂. The EPA used emission reduction data and a predictive statistical interval, the lower predictive limit (LPL), to calculate alternative standards to the concentration-based emission limits for these three pollutants.¹⁰² The EPA received comments supporting and opposing the removal of the alternative

⁹⁷ See 40 CFR 63.2 (definition of malfunction).

⁹⁸ 830 F.3d at 606–10.

⁹⁹ 94 F.4th 77, 103 (D.C. Cir. 2024).

¹⁰⁰ See the Covanta Lake II, Inc. Startup-Shutdown-Malfunction Emission Limit Project, Permit No. 0690046–017–AC, Docket ID EPA–HQ–OAR–2017–0183.

¹⁰¹ 40 CFR 60.33b(d)(1).

¹⁰² See memorandum entitled *MACT Floor Calculation for Large Municipal Waste Combustor Units—Final Rule*, available in the docket for this rulemaking.

percent reduction standards. Considering the comments, the EPA recognizes that the alternative percent reduction standards provide much-needed compliance flexibility considering the variable composition of municipal solid waste and the air pollution controls available for covered pollutants. Occasional slugs of high sulfur or chlorine-containing waste materials may cause brief spikes in acid gas content of the flue gas, to which acid gas scrubbing devices may not immediately be able to respond. Similarly, a mercury-containing item in the municipal waste stream could cause an unanticipated spike, which the activated carbon adsorbent injection system may not immediately be able to respond and which may cause noncompliance with a numeric flue gas concentration limit, although the device is still achieving a high level of Hg removal. Because large MWC owners and operators have limited control over the contents of the waste combusted in their units, this flexibility furthers the goal of leveling the playing field for large MWCs. Without the percent reduction alternative, a large MWC could have a set of air pollution controls identified as the BSER but, due to the unexpected or unusual presence of a waste with a high content of a covered pollutant or precursor to a covered pollutant, be unable to comply with the numeric flue gas concentration limit through no fault of their own. This means that even if two large MWCs have identical administrative and engineering controls, one may be able to demonstrate compliance with the standard and the other may not. That does not represent a level playing field, and only potentially subjects the compliance status of large MWCs to the whims of what the public throws in municipal waste on any given day. The percent reduction alternative standard provides for a more level playing field where two large MWCs with the same administrative and engineering controls can consistently achieve compliance regardless of the contents of the municipal waste, which they cannot completely control.

The EPA also recognizes, however, that the Agency relied heavily on engineering judgement while developing the existing alternative percent reduction standards rather than data demonstrating the performance of the best performing sources. Therefore, as discussed above, the EPA has recalculated these alternative standards based on emissions data using LPL predictive statistics. The resulting alternative percent reduction standards

are generally similar to the existing standards but now reflect a standard based on actual emissions performance data. For example, the EG Hg and SO₂ alternative percent removal standards remain unchanged. However, the EG HCl percent reduction standard rises from 95% to 96%. Similarly, for the NSPS, the Hg percent reduction standard is unchanged at 85%. However, the HCl standard rises from 95% to 98%, while the SO₂ drops by a percentage point, from 80% to 79%.

The EPA is not including the NO_x emissions averaging allowance in the final subpart WWWW EG although for different reasons than those stated at proposal. We conclude that existing sources will not need this allowance on two distinct factors. First, we are not aware of any units that cannot meet the revised NO_x MACT floor limits without mass retrofits and additional controls. As a result, there will be no large scale retrofit needs across the fleet of large MWCs to meet the final NO_x emission limits and less burden on existing sources to accomplish additional NO_x emissions reductions and retrofits about which commenters expressed concerns. Because we are finalizing the reevaluated NO_x MACT floor emission limits, the expected need to retrofit is limited in scope and should not result in significant limited retrofit resource availability or scheduling concerns that an averaging allowance would help alleviate.

Second, an analysis of the air pollution controls installed at large MWC facilities shows that almost all units are similarly equipped at any given facility. For NO_x, this means that, with very limited exceptions, each unit at a facility employs the same NO_x control device (*i.e.*, SCR, SNCR) or has a lower NO_x-generating design.¹⁰³ As a result, the EPA does not anticipate a need to average data from a better-controlled or performing source at a facility with that from a source without a similar control or at a lower performance to allow that lower-performing unit to operate. Specific comments on this topic and associated responses to the alternative percent reduction standards and removal of the emissions averaging allowance are in the Comment Response Document in the docket for this rulemaking.

¹⁰³ The only two exceptions are facilities where the owner or operator constructed a new large municipal waste combustor unit at a later date, and the new unit was subject to 40 CFR 60 subpart Eb NSPS, which does not contain an emissions averaging allowance.

3. Changes for Optional Continuous Monitoring

a. What did we propose with respect to optional continuous monitoring for the large MWC source category?

The EPA proposed to incorporate updated performance specifications for the optional use of a PM CEMS or Hg CEMS or the use of multi-metal, HCl, PCDD/PCDF CEMS in place of stack tests into the large MWC requirements. The proposed changes would update the 2006 final amendments to the large MWC rules, which revised the PM and Hg compliance testing requirements to allow the optional use of a PM CEMS or Hg CEMS in place of stack testing and allow the optional use of multi-metal, HCl, PCDD/PCDF CEMS in place of stack tests after performance specifications for these CEMS are promulgated.¹⁰⁴

The EPA also requested comment on whether the use of CEMS for compliance testing requires adopting alternative emission limits. We noted that more recent combustion rulemakings have included 30-day hourly rolling averages for pollutants measured with Hg CEMS (*e.g.*, Mercury Air Toxics Standards, 40 CFR part 63, subpart UUUU) or other optional CEMS (*e.g.*, CISWI NSPS and EG, 40 CFR part 60, subparts CCCC and DDDD). We also requested comment on whether the 30-day rolling hourly average is appropriate to use in the large MWC source category.

b. How did the revisions to the optional continuous monitoring provisions change for the large MWC source category?

The EPA is finalizing the proposed changes to continue to allow the optional use of CEMS in place of stack testing after performance specifications for the CEMS are promulgated and incorporate currently available applicable performance specifications. This allows flexibility for a facility to use CEMS for which performance specifications do not yet exist through the use of site-specific performance evaluation plans. Additionally, we are not finalizing 30-day averaging times for any of the required CEMS pollutant monitoring (CO, SO₂ and NO_x). The EPA at this time has insufficient information to assess the suitability and magnitude of a potential 30-day rolling average, as the data consists solely of the maximum four-hour or 24-hour average, recorded over the course of a reporting year. The EPA received comments mainly supporting the

¹⁰⁴ 71 FR 27326 (May 10, 2006).

allowance of CEMS for additional pollutants as an option, but some commenters urged the EPA to require monitoring using CEMS. Specific comments and associated responses to the optional use of CEMS and a 30-day hourly rolling average are in the Comment Response Document in the docket for this rulemaking.

4. Changes To Streamline Regulatory Text Within the Large MWC EG and NSPS

a. What did we propose with respect to streamlining regulatory text for the large MWC source category?

The EPA proposed changes to the regulatory format of the large MWC standards to be more accessible and easier to follow than the 1995 large MWC final rule. The proposed rule converted paragraph text describing emission standards and performance testing requirements to tables to facilitate easier implementation and understanding of the requirements. The EPA added these new tables to the ends of the subparts for these requirements, similar to the approach in other, recent CAA section 129 rulemakings.

b. How did the proposed revisions to streamline regulatory text change for the large MWC source category?

The EPA is finalizing changes to the regulatory format of the large MWC standards as proposed, with additional revisions to convert the text and tables to new subparts VVVV and WWWW, incorporate Federal Plain Language Guidelines, and establish section-numbering increments of five to allow or adequate numeric spacing to revise or add new regulatory text sections if needed in the future. The EPA received no substantive comments on streamlining the regulatory text.

5. Closing the 2007 Proposed Reconsideration of the Large MWC EG and NSPS

a. What did we propose in connection with closing the 2007 proposed reconsideration for the large MWC source category?

The EPA proposed to complete action on the March 20, 2007 reconsideration that the EPA had not finalized. In that 2007 notice, we announced our reconsideration of three aspects of the 2007 final rule based on stakeholder requests: operator stand-in provisions, data requirements for continuous monitors, and the status of operating parameters during the two weeks prior to Hg and PCDD/PCDF testing.¹⁰⁵ We

proposed that no changes to the 2007 final rule were warranted as a result of the reconsideration.¹⁰⁶ In the proposed rule for this action, the EPA reiterated the issues raised and discussed in the 2007 notice, acknowledged that we received only one supportive comment on these issues, and proposed to finalize the 2007 reconsideration, as previously proposed, with no changes to those three aspects of the rule, if the Agency received no adverse comments during the comment period for this rulemaking.¹⁰⁷

b. How did the proposed revisions change for the large MWC source category?

The EPA is making no additional changes to the final rule as a result of the proposed closing of the issues raised in the 2007 reconsideration, as recent comments received generally support closing these issues. We received comments both supporting the operator stand-in provisions as they exist and supporting revisions to the provisions to shorten the timeframe that provisionally certified operators may operate the MWC unit. Additionally, commenters supported not changing the mass carbon feed rate operating parameter provisions for PCDD/PCDF and Hg testing. Our response to these comments is in the Comment Response Document in the docket for this rulemaking.

6. Updating Operator Training Examination Requirements

a. What did we propose with respect to updating operator training exam requirements for the large MWC source category?

The EPA proposed to include and incorporate by reference the updated QRO in the final rulemaking. The 1995 large MWC final rule cited the 1994 version, QRO-1-1994. However, ASME released an updated version in 2005, identified as QRO-1-2005, which the EPA proposed to include in the regulatory text and incorporate by reference.

b. How did the proposed revisions change for the large MWC source category?

The EPA is promulgating as proposed with no additional changes to the final rule. We received one comment requesting increased training

requirements for MWC operators, supervisors, and personnel. Our response to this comment is in the Comment Response Document in the docket for this rulemaking. The reference to QRO-1-2005 has been added to 40 CFR 60.17(g), 60.5865, and 60.6420.

7. Revisions to Title V Permitting Requirements for Air Curtain Incinerators Burning Only Wood Waste, Clean Lumber, and Yard Waste

a. What did we propose in connection with title V permitting requirements for air curtain incinerators for the large MWC source category?

The EPA proposed to remove a title V permitting requirement in the 1995 large MWC final rule for air curtain incinerators that only burn wood wastes, yard wastes, and clean lumber (and that comply with applicable opacity limitations) and are not at a major source or subject to title V for other reasons.¹⁰⁸ The EPA noted in the proposed rule that CAA section 129(e), which requires title V permits for solid waste incineration units, does not apply to these ACI because they are not solid waste incineration units, as defined in CAA section 129(g)(1)(C). The proposed rule explained that the EPA nevertheless required title V permitting for these air curtain incinerators in previous rulemakings for various reasons, primarily because we believed that compliance with a title V permit was necessary to assure compliance with the opacity requirements established for such incinerators. However, we proposed to remove this requirement based on feedback from several States indicating that the title V requirements are unnecessarily burdensome and expensive for States to maintain and based on data showing that air curtain incinerators that burn exclusively wood waste, clean lumber, and yard waste are commonly at facilities that would not otherwise require a title V operating permit.

b. How did the proposed revisions concerning title V permitting requirements for air curtain incinerators change for the large MWC source category?

The EPA received comments supporting and opposing the removal of the title V permitting requirements for air curtain incinerators that only burn wood waste, clean lumber, and yard waste; comply with opacity limitations; and that are not at a major source or subject to title V for other reasons. After

¹⁰⁶ *Id.*

¹⁰⁷ 89 FR 4257 (Jan. 23, 2024). As a miscellaneous and superfluous observation, the EPA notes that the reconsideration petition issue concerning the Pb standard, which the EPA did not grant, is moot based on this final action to address the voluntary remand of the MACT floors, which results in more stringent Pb standards.

¹⁰⁵ 72 FR 13016 (Mar. 20, 2007).

¹⁰⁸ 89 FR 4258 (Jan. 23, 2024).

consideration of these comments and the exclusion of these ACI from the title V permitting requirement in section 129(e) as they are not “solid waste incineration units” as defined in 129(g)(1)(C), we are finalizing, as proposed, the removal of the title V permitting requirements for these units. As noted in the proposed rule, to the EPA’s knowledge, no large MWC facility also operates an air curtain incinerator that burns exclusively wood waste, clean lumber, and yard waste. Our response to comments on the removal of this requirement is in the Comment Response Document in the docket for this rulemaking.

8. Electronic Reporting

a. What did we propose in terms of electronic reporting for the large MWC source category?

The EPA proposed that owners and operators of large MWC units submit electronic copies of required performance test reports, performance evaluation reports, semiannual compliance reports, annual reports, and certain notifications through CDX using CEDRI. We proposed that owners or operators must collect performance test results using test methods that ERT supports, as listed on the ERT website at the time of the test; submit theses in the format generated by the ERT or an electronic file consistent with the XML schema on the ERT website; and submit other performance test results in PDF using the attachment module of the ERT.¹⁰⁹ We also proposed that owners or operators must submit performance evaluation results of CEMS measuring RATA pollutants in the format generated by the ERT or an electronic file consistent with the XML schema on the ERT website, and submit other performance evaluation results in PDF using the attachment module of the ERT. The proposed rule would require owners or operators to submit certain other notifications as a PDF upload in CEDRI. For semiannual and annual reports, the EPA proposed that owners and operators use an appropriate spreadsheet template (provided in the docket for review) to submit information to CEDRI.

The EPA proposed two broad circumstances in which the Agency may provide electronic reporting extensions: first, outages of CDX or CEDRI that preclude an owner or operator from accessing the system and submitting required reports, and second, force majeure events, defined as events that

will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically.¹¹⁰

b. How did the proposed revisions for electronic reporting change for the large MWC source category?

Commenters generally supported the proposed requirements for electronic reporting. One commenter requested flexibility on the effective dates for electronic reporting, and another commenter suggested that the EPA require reporting of all large MWC CEMS data in averaging times that an entity can compare to the standard. To address this, the EPA has revised the regulatory text at 40 CFR 60.6090(c)(2) and 60.6630(c)(2) to add the requirement that owners or operators report all block averages during the reporting period as well as identify the periods of warmup, startup, and shutdown during which they collect all CEMS data and the large MWC is operating. We are not changing the effective dates for electronic reporting in response to comments received. Our complete responses to these comments are in the Comment Response Document in the docket for this rulemaking.

9. Technical and Implementation Corrections

a. What did we propose in terms of technical and implementation corrections for the large MWC source category?

The EPA proposed corrections and clarifications to the NSPS and EG that the Agency and stakeholders identified during implementation of the previous regulations, as follows:

1. Applicability and Delegation of Authority

- Adding 40 CFR 60.6300(d) and 60.5705 to clarify that large MWC units subject to 40 CFR part 60, subpart WWW are not subject to 40 CFR part 60, subpart Db. This makes the NSPS and EG consistent with 40 CFR part 60, subpart Db, which exempts large MWC units from that subpart.

- Revising 40 CFR 60.6255 to clarify that the EPA Administrator retains approval of certain exemption claims in 40 CFR 60.6305(a), (b), (c), (d), and (g); approval of major alternatives to test methods and monitoring; approval of waivers of recordkeeping; performance test and data reduction waivers; and approval of alternatives to electronic

reporting to the EPA and that the approval authority does not transfer to a State upon delegation of authority to that State to implement an approved State plan.

- Revising 40 CFR 60.5710 to clarify that the EPA Administrator retains sole authority to issue the federally enforceable 11 tpd limit for exemptions in 40 CFR 60.5700(a) and the 30 percent municipal waste limit for co-fired units in 40 CFR 60.5700b(g).

- Revising 40 CFR 60.5710(a)(4) to correct a typographical error and clarify that the EPA Administrator retains sole authority to review and approve demonstrations that establish the relationship between carbon dioxide (not CO) and oxygen as part of initial and annual performance tests.

2. Definitions

- Amending the definition of “federally enforceable” in 40 CFR 60.6145 to correct a cross-referencing error, *i.e.*, to reference 40 CFR 51.165 and 51.166 instead of 40 CFR 51.18 and 51.24.

3. Performance Testing and Monitoring

- Revising 40 CFR 60.5960 and 60.5970(b) to correct an oversight and clarify that the revised testing schedule (once per calendar year but no less than nine months and no more than 15 months following the previous test) also applies to fugitive ash and HCl testing.

4. Reporting and Recordkeeping Requirements

- Revising 40 CFR 60.6255 to clarify that State plans are due on March 10, 2027.

- Adding 40 CFR 60.6045(h)(i) to clarify that owners or operators must record all data for continuous monitoring systems using “local time” for the location of the affected facility unless the Administrator approves an alternative time system.

- Revising 40 CFR 60.6090(c) to require owners and operators to additionally report the annual arithmetic average of all hourly values recorded during operations for the reporting year.

b. How did the proposed technical and implementation corrections change for the large MWC source category?

The EPA received minimal comments on these proposed revisions, and is not making significant changes to the final rule from the proposed clarifications and corrections. The EPA has converted the proposed clarifications and corrections to text in the final rule at 40 CFR part 60, subparts VVVV and WWW and updated citations and

¹⁰⁹ See Electronic Reporting Tool (ERT): <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

¹¹⁰ See 40 CFR 63.2 (definition of force majeure).

cross-references accordingly. The comments received on these proposed changes mainly focused on other suggestions for monitoring and testing requirements of the rule. Our response to these comments is in the Comment Response Document in the docket for this rulemaking.

V. Summary of Cost, Environmental and Economic Impacts, and Additional Analyses Conducted

A. What are the affected facilities?

The large MWC source category comprises units with a capacity greater than 250 tpd of MSW. The EPA estimates the current fleet of large MWC units to include 152 units at 57 facilities nationwide. Of these, 129 (85 percent) are mass-burn units, and the remaining are refuse-derived fuel systems. Approximately 30 percent of currently operating large MWCs are subject to 40 CFR part 60, subpart Eb (2006 NSPS limits), with the remaining subject to 40

CFR part 60, subparts Ea (NSPS limits for units constructed after December 20, 1989, and on or before September 20, 1994), or Cb (EG for units constructed before September 20, 1994). The EPA estimates that there are 22 municipally owned or operated facilities, with a total of 62 municipally owned or operated large MWC units. As discussed in section III of this preamble, the final rule creates new subparts VVVV (NSPS for facilities for which construction is commenced after January 23, 2024) and WWWW (EG for units constructed on or before January 23, 2024), which will replace subparts Ea, Eb, and Cb, once effective. All units currently subject to subparts Ea, Eb, and Cb will need to be in compliance with 40 CFR part 60, subpart WWWW not later than three years after the Administrator approves the applicable State plan but not later than five years after the EPA promulgates the guidelines, as required by CAA section 129(b)(2).

B. What are the air quality impacts?

The EPA estimates this final rule will result in 3,269 tpy reduction in regulated pollutants from existing sources through implementation of the final emission limits. The EPA estimated emissions reductions for all units that would likely need add-on controls, improvements to existing control devices, or increased carbon or lime injection rates to meet a given limit.¹¹¹ Because the EPA assumes that good combustion practices are the most effective control for CO, compared to add-on controls or control improvements, the Agency assessed no additional control costs or associated emission reductions for CO.¹¹² For all other pollutants, the EPA assumed that units would comply with emission limits by operating the control measure(s) described in the large MWC cost memorandum.¹¹³ Table 7 of this preamble presents these reductions.

TABLE 7—ESTIMATED ANNUAL EMISSIONS REDUCTIONS FOR THE FINAL RULE

Pollutant ²	Unit of measure	Reductions achieved through final rule implementation
Cd	ton/yr	0.0024
Pb	ton/yr	0.0409
PCDD/PCDF	g/yr	4.0
HCl	ton/yr	641
NO _x	ton/yr	2,630
Total ¹	ton/yr	3,269

¹ Values have been rounded to three significant figures. Rows may not appear to sum correctly due to rounding.

² Hg or SO₂ have no emission reductions.

Indirect or secondary air emissions can result from the increased energy requirements associated with the operation of new control devices (*i.e.*, increased emissions of criteria pollutants from the power plants supplying that additional electricity). The EPA expects that existing units still operating electrostatic precipitators for particulate control may need to retrofit with a fabric filter control device, but we expect the difference in energy needs for each of these devices to be minimal. Further, any improvements made to existing fabric filters will not be significant enough to require a larger fan, meaning that electricity consumption would remain unchanged. For NO_x control, most units already have SNCR, so further control, if

needed, could require retrofitting with ASNCr or LNTM NO_x technology. Owners or operators would likely use existing SNCR equipment for these retrofit options, meaning any additional power consumption requirements would be minimal. In the rare case where a unit goes from no SNCR to SNCR, the unit's own generating capabilities, rather than through fossil fuel combustion, would supply the minimal amount of power required to pump reagent to the furnace. We expect sources to further control Hg and PCDD/PCDF through increased carbon injection for units that already have activated carbon injection systems or by installing new activated carbon injection systems.

We expect increases in power demand for existing systems and demand for

new systems to be minimal and met with a small fraction of the power generation from the facility. Similarly, we expect power demand increases for acid gas control systems to be minimal and met with power that facilities are already generating. Sources typically control acid gases with a dry sorbent injector scrubber or spray dryer absorber. Additional control (*i.e.*, increased sorbent injection rates in the existing control device) would require only minimal increases in sorbent conveying equipment power needs. If an owner or operator determined a need for a retrofit to a CFBS to meet the standards for acid gases, this retrofit could provide a small savings in sorbent injection and power consumption needs. A CFBS is generally more

¹¹¹ See memorandum entitled *Emission Reduction Estimates for Existing Large MWCs Final Rule Amendments*, Docket ID No. EPA-HQ-OAR-2017-0183.

¹¹² Further, the annual maximum data for the majority of sources do not reflect actual

performance. As noted in section IV.B of this preamble, the EPA is finalizing significant changes to the continuous monitoring reporting provisions so that we have access to continuous data. Therefore, an assessment of any presumed emissions reductions in comparison to the

reevaluated MACT floor for CO is not possible at this time.

¹¹³ See memorandum entitled *Compliance Cost Analyses for Large MWC Final Rule Amendments*, Docket ID No. EPA-HQ-OAR-2017-0183.

effective at acid gas control for the same amount of sorbent and at a power consumption equal to or less than that of spray dryer absorbers.

As a result of these assessments, the reevaluated emission limits for large MWCs are unlikely to have any consequential secondary air impacts because the increase in energy requirements due to new control measures is minimal, and power already

being generated at the plant would support what little additional energy may be required. For the same reason, impacts on the overall nationwide energy requirements are expected to be negligible.

C. What are the cost impacts?

We have estimated compliance costs for all existing units to add the necessary controls to meet the final

standards.¹¹⁴ We anticipate an overall capital investment of approximately \$90 million, with an associated total annualized cost (including operating and maintenance costs) of approximately \$26 million (in 2024 dollars). Table 8 of this preamble provides the cost breakdown by pollutant grouping and regulatory option.

TABLE 8—COMPLIANCE COSTS OF FINAL RULE
[2030–2049]¹

Pollutant grouping	Final rule estimate	
	Total capital cost (\$)	Total annualized cost (\$/yr) ¹
Cd, Pb	\$19,000,000	\$1,100,000
Dioxins/Furans (PCDD/PCDF)	0	0
HCl	0	11,000,000
Nitrogen Oxides (NO _x)	71,000,000	14,000,000
Total control costs	\$90,000,000	\$26,000,000

¹ Includes operating and maintenance costs. We have annualized capital costs over 20 years at an interest rate of 7.5 percent unless noted otherwise, except for particulate capital costs which we have annualized over 15 years at the same interest rate to reflect equipment life assumptions. (See *Compliance Cost Analyses for Large MWC Final Rule Amendments* memorandum in the docket for this rulemaking for more details.)

Table 9 summarizes the cost effectiveness of the final rule amendments by pollutant category. As these pollutant categories are linked to inseparable control technology assumptions, whether by rule construction or by the nature in which specific controls may capture multiple pollutants, the information is not

presented or calculated with any additional granularity. These cost effectiveness estimates also assume that the costs of the rule and that the emissions reductions achieved are accurately estimated. If the costs were underestimated, these cost effectiveness estimates would be underestimated by an equivalent ratio, and the reverse

would be true as well. If the emissions estimates were overestimated, the potential for which is discussed in the RIA with specific attention to NO_x, the cost effectiveness estimates would be underestimated, and the reverse would be true as well.

TABLE 9—COST EFFECTIVENESS OF THE FINAL RULE AMENDMENTS

Pollutant ²	Reductions achieved through final rule implementation	Cost effectiveness
Cd, Pb	0.043 tpy	² \$26,000,000
Dioxins and Furans (PCDD/PCDF)	4.0 g/yr	0
HCl	641 tpy	15,700
Nitrogen Oxides (NO _x) ¹	2,630 tpy	5,380

¹ Values have been rounded to three significant figures.

² These are small incidental reductions and the EPA is not regulating beyond the MACT floor.

D. What are the economic impacts?

The EPA conducted an economic impact analysis for the final rule in the Regulatory Impact Analysis (RIA), which is available in the docket for this action. This analysis took the form of a “cost-to-sales” analysis. If the compliance costs are small relative to the receipts of the affected companies, the impact analysis may consist of a calculation of annual (or annualized) costs as a percent of sales for affected parent companies. The EPA often applies this type of analysis when the

Agency considers a partial equilibrium or more complex economic impact analysis approach unnecessary given the expected size of the impacts. The annualized cost per sales for a company represents the maximum price increase in the affected product or service needed for the company to completely recover the annualized costs imposed by the regulation, assuming no changes in affected services or outputs.

The EPA estimated the annualized compliance cost that the Agency expects each owner to incur and determined the estimated cost-to-sales ratio for affected

units. To reflect the total impact of the rule on the regulated entities, the EPA aggregated these costs to the owner level and compared the costs to all jointly owned and operated facilities to the ultimate parent company revenues for all regulated units and facilities. The estimated cost-to-sales ratio for affected entities, none of which are small according to Small Business Administration size standards, is 0.38 percent of annual revenues for the regulated entities. This ratio only exceeds one percent for two facilities and does not exceed 2.1 percent for any

¹¹⁴ See memorandum entitled *Compliance Cost Analyses for Large MWC Final Rule Amendments*,

Docket ID No. EPA–HQ–OAR–2017–0183. Final rule cost estimates in Table 8 reflect updates to cost

inputs for hydrated lime and landfill tipping fees received during the public comment period.

entity. The EPA expects the final rule to generate annual compliance cost increases greater than one percent of annual revenue for two out of 21 ultimate parent entities. Of these, one is municipally owned, and one is privately owned with 32 units under one parent company. The average cost-to-sales ratio of the remaining 19 entities is approximately 0.21 percent. Therefore, the projected economic impacts of the expected compliance costs of the final rule are likely to be relatively small as compared to parent company revenue. These costs are also less than half of those estimated for the 2024 proposed rule, and given the cost to sales ratios just discussed, these estimates are characterizable as small relative to the revenues of the owners within the affected industry. Consequently, the EPA does not anticipate that this regulatory action will lead to perceptible disruptions to the industry or significant changes in consumer welfare through increases in billing or reductions in service.

E. What are the benefits?

Pursuant to Executive Order 12866, the RIA for this final action analyzes the benefits associated with the projected emissions reductions under this final rule to inform the EPA and the public about these projected impacts. The EPA projects this final rule to reduce emissions of HAP and NO_x from existing MWCs nationwide. The EPA expects control measures to reduce about 0.0433 tpy of HAP metal emissions, including emissions of Cd, Pb, and PCDD/PCDF. The emission reductions estimated for this final rule occur only for existing sources since the EPA does not expect this rule to impact any new, reconstructed, or modified large MWCs. The control measures to reduce HAP and NO_x emissions in this final rule could improve air quality and the health of persons living in surrounding communities.

The EPA is obligated to present the agency’s best scientific understanding

and the implications of that science when developing policies and regulations. However, the EPA’s analytical practices may not have presented the full range of uncertainties and associated confidence level regarding the potential benefit estimates from reduction in exposure to fine particulate matter (PM_{2.5}) and ozone. In addition, the science regarding the exposure, health effects from exposure and valuation of reduction in health effect are evolving with better data and methods, especially at low concentrations of PM and ozone. The EPA’s use of benefit per ton (BPT) monetized values introduces additional uncertainty. Although developed as a screening tool when full-form photochemical modeling was not feasible, the BPT approach reduces complex spatial and atmospheric relationships and may be more suited to model emissions that are geographically more uniform and species better mixing, thereby adding uncertainty associated with those estimates. Some of the sources of uncertainties include the set of assumptions used in projecting the health impact of reducing particulate matter. These projections are based on a series of models that take into account emissions changes, resulting in distributions of changes in ambient air quality, the estimated reductions in health effects from changes in exposure, and the composition of the population that will benefit from the reduced exposure. Each component includes assumptions, each with varying degrees of uncertainty.

In addition, the EPA historically provided point estimates rather than ranges of emission-related effects or only quantifying emissions when monetizing proved to be too uncertain. Therefore, to address these concerns, the EPA is refraining in providing primary estimates resulting from changes in PM_{2.5} and ozone exposure resulting from changes in NO_x emissions but will continue to quantify

the emissions until the Agency is confident enough in the modeling to robustly monetize those impacts.

VI. Statutory and Executive Order Reviews and 1 CFR Part 51

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 a “significant regulatory action” as defined under section 3(f)(1) of Executive Order 12866. Accordingly, the EPA submitted this action to the OMB for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Regulatory Impact Analysis for the Final Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors*, is also available in the docket.

Table 10 of this preamble presents the estimated PV and EAV of the projected compliance costs of the final rule in 2024 dollars discounted to 2025.

As explained in detail in the RIA, the EPA was unable to quantify and monetize the potential impacts associated with reductions of HAP.

The compliance costs presented in Table 10 are the estimated costs of control technologies and measures applied to meet the emissions limits in the final rule. In simple terms, these costs are an estimate of the increased expenditures for large MWCs to implement the final requirements. These cost estimates include the PRA cost of subpart WWWW (detailed below in section VI.C).

TABLE 10—PROJECTED COMPLIANCE COSTS OF THE FINAL RULE, 2030 TO 2049
[Millions of 2024 dollars, discounted to 2025] ¹

	3% Discount rate ¹	7% Discount rate ¹
Present Value	\$330	\$210
Equivalent Annualized Value	25	28

¹ Values have been rounded to two significant figures. Rows may not appear to sum correctly due to rounding.

The projected compliance costs have a present value of \$330 million using a three percent discount rate and \$210 million using a seven percent discount

rate. The EAVs of these values are \$25 million and \$28 million respectively.

These results present an incomplete overview of the potential effects of the final rule because important categories

of benefits—including benefits from reducing HAP, benefits from reducing PM, benefits from reducing ozone, and the benefits from increased transparency of emission data—were not monetized

and are therefore not reflected in the cost table. We anticipate that taking non-monetized effects into account would have shown the final rule to have a net benefit, which is not reflected in this table.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 regulatory action. For regulatory accounting purposes, the estimated present value and annualized value of the costs of this rule are \$210 million and \$28 million, respectively (7% discount rate, 2024\$, 2024 present value year, perpetuity time horizon). Details on the estimated costs of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) documents that the EPA prepared have been assigned EPA ICR number 1847.11 (OMB Control number 2060–0390) for subpart WWWW (formerly subpart Cb) and EPA ICR number 1506.17 (OMB Control number 2060–0210) for subpart VVVV (formerly subparts Ea and Eb). You can find a copy of the ICR documents in the docket for this rule, and they are briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

These regulations apply to facilities that own and operate MWC units with a combustion capacity greater than 250 tpd of MSW that were constructed on or before January 23, 2024 (subject to 40 CFR part 60, subpart WWWW) and to facilities for which construction is commenced after January 23, 2024 (subject to 40 CFR part 60, subpart VVVV). The reporting and recordkeeping requirements discussed here result from the EG that apply to large MWCs covered by the EPA-approved and effective State plans and, where a State plan has not been approved, large MWCs covered by the Federal plan, and large MWCs subject to the NSPS. This information is being collected to ensure compliance with 40 CFR part 60, subparts WWWW and VVVV. In general, all EG and NSPS require initial notifications, performance tests, and periodic reports by the owners or operators of the affected facilities. Owners or operators of the affected facilities are also required to maintain records of the occurrence and duration of any SSM event in the operation of an affected facility, or any

period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance and are required of all affected facilities subject to EG or NSPS.

The final EG and NSPS remove SSM exclusions and exemptions. These amendments also streamline regulatory language, revise recordkeeping requirements, require electronic reporting, reestablish new and existing source applicability dates, clarify requirements for air curtain incinerators, correct certain typographical errors, make certain technical corrections, and clarify certain provisions in the NSPS and EG.¹¹⁵

For the final EG in 40 CFR part 60, subpart WWWW, the EPA is revising all emission limits, except CO for two subcategories of combustors and for NO_x for two subcategories of combustors. Similarly, for the final NSPS in 40 CFR part 60, subpart VVVV, the EPA is revising all emission limits. The ICR for the final EG (EPA ICR number 1847.12) has been adjusted from the proposed rule to incorporate burden for Designated Administrators (States) to submit initial State plans and notifications of public hearings for State plans to incorporate the requirements of subpart WWWW.

Because the EPA is revising applicability dates and ultimately reserving subpart Ea, the burden associated with subpart WWWW includes the burden for units currently subject to subparts Ea and Eb combined with the burden for those currently subject to subpart Cb. Although no new sources are currently expected to commence construction within the next three years, the burden a new source would incur under subpart VVVV would be very similar to the current subpart Eb burden. That is, the burden would be the total of the existing new source burden (such as site selection analysis/report, initial notifications, etc.) associated with subpart Eb plus the small amount of incremental burden due to electronic reporting associated (familiarization with CEDRI and electronic data submittal) with subpart VVVV. Therefore, the EPA estimates the overall burden for a new source to comply with the monitoring, reporting and recordkeeping requirements of the NSPS as 3,800 hours at a total cost of \$410,000.

Respondents/affected entities: Large MWC units constructed on or before January 23, 2024, or that are

reconstructed or modified prior to September 10, 2026.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart WWWW).

Estimated number of respondents: 72.

Frequency of response: Annual.

Total estimated burden: 3,670 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$228,000 (per year), includes no annualized capital or operation and maintenance costs.

For subpart VVVV, the EPA does not anticipate any construction of new units or NSPS-triggering reconstruction or modifications of existing units within the next 3 years.

Respondents/affected entities: Large MWC units constructed, modified, or reconstructed after January 23, 2024.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart VVVV).

Estimated number of respondents: 0.

Frequency of response: Annual.

Total estimated burden: 0 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$0 (per year), includes no annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

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. We have estimated that no small entities would be affected by the final changes to the EG and NSPS. For more information, please refer to the RIA for the final rule.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million (adjusted annually for inflation) or more (in 1995 dollars) and described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed \$187

¹¹⁵ See section 12b of the Supporting Statement to the ICRs for the final rulemaking in the docket for more details.

million in 2024\$ (\$100 million in 1995\$ adjusted for inflation using the GDP implicit price deflator) or more in any one year.

F. Executive Order 13132: Federalism

Under Executive Order 13132, the EPA may not issue an action that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed action.

The EPA has concluded that this action has federalism implications because it imposes substantial direct compliance costs on State or local governments, and the Federal government will not provide the funds necessary to pay those costs. The EPA consulted with State and local officials early in the process of developing this action to permit them to have meaningful and timely input into its development. The EPA conducted federalism/UMRA consultations, conducted additional outreach meetings, and considered input and additional letters received from a number of State and local government organizations in the development of this rule, as described in the preamble to the proposed rule.

The EPA provides the following federalism summary impact statement as required by section 6(b) of Executive Order 13132. Based on the estimates in the EPA's RIA for this action, the regulatory option may have federalism implications because the action may impose approximately \$28 million (2024 dollars) in total annualized cost (including operating and maintenance costs), with approximately 22 large MWC facilities, or 40 percent of the total large MWC facility population, being owned by a State or local government.

The EPA consulted with State and local officials early in the process of developing the proposed action to permit them to have meaningful and timely input into its development. The EPA conducted a federalism/UMRA consultation outreach briefing on March 16, 2023. Invited participants included representatives from the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of

Towns and Townships, the County Executives of America, and the Environmental Council of States. Additionally, the Agency invited representatives from the National Association of Clean Air Agencies, the Association of Air Pollution Control Agencies, the Association of State and Territorial Solid Waste Management Officials, and other groups representing State and local government professionals. Due to interest in the proposal, the EPA held additional outreach meetings on April 17, 2023, and April 27, 2023. The consultations included discussion of a preliminary listing of State or municipal-owned large MWCs, the elements of the rulemaking, reevaluation of the MACT floors, the five-year review, potential costs and air emission impacts of regulatory options being considered, and other issues such as SSM provisions.

In accordance with the requirements of Executive Order 13132, and consistent with the EPA's policy to promote communications between the EPA and State and local governments, the EPA specifically solicited comment on the proposed action from State and local officials. The EPA received comments from 19 entities representing State and local governments. The EPA submitted these letters to the pre-proposal non-rulemaking docket.¹¹⁶

Several themes emerged from State and local government comments. Commenters raised concerns regarding the timeliness of the five-year review, lack of a residual risk review for the existing rules, cost estimates for the regulatory options, impacts of rulemaking on operations of MWCs and associated taxpayer impacts, and both support for and opposition to the NO_x five-year review regulatory option.

For the final rule, in response to stakeholder comments, the EPA has refined the cost estimates for acid gas control to reflect higher lime costs and landfill tipping fees to reflect regional differences and has maintained the longest compliance deadline for implementing the new emission standards allowable by the CAA. Additionally, the EPA is not finalizing the standards for NO_x based on the five-year review results for existing sources and instead is finalizing the emission limits based on MACT for the subcategory of combustor. Moreover, the EPA based the remaining standards on the MACT floor (as reevaluated, but with additional 1990–1995 data provided during both comment periods) and as such expects these standards to

be the least costly regulatory options for State and local owners and operators of large MWCs.

Comments submitted to the docket in response to the proposed rule (*i.e.*, outside of the UMRA consultations) largely contained the same types of comments as in the UMRA consultation process but often with an expanded discussion of commenters' concerns. Our response to these comments is in the Comment Response Document in the docket for this rulemaking.

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

This action does not have Tribal implications as specified in Executive Order 13175. The EPA is not aware of any large MWC units owned or operated by Tribal governments. Thus, Executive Order 13175 does not apply to the final rule.

Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with Tribal officials during the development of this action. A summary of that consultation is provided here. During the development of this action, the EPA offered pre-proposal government-to-government consultation with Tribal nations. No Tribal nations requested consultation with the EPA. On January 11, 2024, the EPA emailed a consultation letter with information to Tribal nations explaining how to comment on the proposed rulemaking and how to request a consultation with the EPA. The EPA held a roundtable with the National Tribal Air Association on January 25, 2024, to provide an overview of the proposed rule. This action will not have substantial direct costs or impacts 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, as specified in Executive Order 13175.

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 subject to Executive Order 13045 because it is a significant regulatory action under section 3(f)(1) of Executive Order 12866, and the EPA believes the environmental health or safety risk addressed by this action may have a

¹¹⁶ Docket ID No. EPA-HQ-OAR-2022-0920.

disproportionate effect on children. The protection offered by this action may be especially important for children because the rule has considerations for human health, and children have increased susceptibility due to their physiology and continuing development of organ systems. Accordingly, we have evaluated the environmental health or safety effects of Cd, Hg, Pb, PM, HCl, PCDD/PCDF, PM_{2.5} and O₃ on children.

This action also is subject to the EPA's Policy on Children's Health because the rule has considerations for human health. Accordingly, we have evaluated the environmental health effects of Cd, Pb, HCl, PCDD/PCDF, PM_{2.5} and O₃ to early life exposure (the life stages from conception, infancy, early childhood and through adolescence until 21 years of age) and lifelong health.¹¹⁷

In summary, the RIA found that children may be more vulnerable to corrosive agents (such as HCl) than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of increased minute ventilation per kg and failure to evacuate an area promptly when exposed. Lead is associated with toxic effects in every organ system including adverse renal, cardiovascular, hematological, reproductive, and developmental effects. However, the major target for Pb toxicity is the nervous system, both in adults and children. Children are more sensitive to the health effects of Pb than adults. No safe blood Pb level in children has been determined. At lower levels of exposure, Pb can affect a child's mental and physical growth. Fetuses exposed to Pb in the womb may be born prematurely and have lower weights at birth. Exposure in the womb, in infancy, or in early childhood also may slow mental development and cause lower intelligence later in childhood. There is evidence that these effects may persist beyond childhood.¹¹⁸ PCDD/PCDF "are known to be a developmental toxicant in animals, causing skeletal deformities, kidney defects, and weakened immune responses in the offspring of animals exposed to 2,3,7,8-TCDD during pregnancy."¹¹⁹ Animal studies indicate that Cd may cause adverse

developmental effects, including reduced body weight, skeletal malformation, and altered behavior and learning.¹²⁰ Nonfatal morbidity was not quantified and monetized for other nervous system effects (e.g., autism), reproductive and developmental effects (e.g., low birth weight, pre-term births, etc.). Nonfatal morbidity from exposure to ozone was quantified and monetized for asthma onset (ages 0–17), asthma symptoms/exacerbation (ages 5–17), allergic rhinitis (hay fever) symptoms (ages 3–17), and school absence days (age 5–17) in the Ozone ISA. Nonfatal morbidity was not quantified and monetized for reproductive and developmental effects.

Further, this action does not describe the health impacts that are associated with reduced NO_x emissions, including those for children.¹²¹ The EPA expects these benefits are positive. Sections 3.2 Human Health Effects from Exposure to Hazardous Air Pollutants (HAP), 3.3.

This action is preferred over other regulatory options analyzed because this provides society with a substantial net gain of health and environmental benefits at the lowest cost to industry and local government entities that operate large municipal waste combustors. Furthermore, the EPA's *Policy on Children's Health* also applies to this action.

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

This action is not a "significant energy action" because the final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. There would be no change in energy consumption resulting from the final rule, and the EPA does not expect any price increase for any energy type. We also expect that there would be no impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regard to energy supplies.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. The EPA previously conducted searches to determine if there are voluntary consensus standards (VCS) that are relevant to this action and

reviewed any potential standards to determine the practicality of the VCS for these rules.¹²² The EPA has decided to use these methods as acceptable alternatives to EPA test methods for the purposes of these rules, which are summarized as follows:

- The manual portion only and not the instrumental portion of VCS, American National Standard Institute (ANSI)/ASME PTC 19–10–1981 Part 10 (2010), "Flue and Exhaust Gas Analyses," is an acceptable alternative to EPA Methods 3B, 6, 6A, 6B, 7, and 7C. The EPA incorporates by reference VCS ANSI/ASME PTC 19.10–1981 Part 10, "Flue and Exhaust Gas Analyses," a method for quantitatively determining the gaseous constituents of exhausts resulting from stationary combustion and includes a description of the apparatus, and calculations which are used in conjunction with Performance Test Codes to determine quantitatively, as an acceptable alternative to EPA Methods 3B, 6, 6A, 6B, 7, and 7C of appendix A to 40 CFR part 60 for the manual procedures only and not the instrumental procedures. The ANSI/ASME PTC 19.10–1981 Part 10 method incorporates both manual and instrumental methodologies for the determination of oxygen content. The manual method segment of the oxygen determination is performed through the absorption of oxygen. This method is available at the American National Standards Institute (ANSI), 1899 L Street NW, 11th floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.¹²³ The standard is available to everyone at a cost determined by ANSI/ASME. The cost of obtaining this method is not a significant financial burden, making the methods reasonably available.

- The voluntary consensus standard ASTM D7520–16, "Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere," is an acceptable alternative to EPA Method 9 only if the following conditions are followed:

1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue

¹¹⁷ See EPA Policy on Children's Health: <https://www.epa.gov/children/childrens-health-policy-and-plan>.

¹¹⁸ See Agency for Toxic Substances and Disease Registry: <https://www.atsdr.cdc.gov/2020-annual-report/php/index.html>.

¹¹⁹ Agency for Toxic Substances and Disease Registry (ATSDR). Toxicological Profile for Chlorinated Dibenzop-Dioxins. Public Health Service, U.S. Department of Health and Human Services, Atlanta, GA. 1998.

¹²⁰ Agency for Toxic Substances and Disease Registry: <https://www.atsdr.cdc.gov/2020-annual-report/php/index.html>.

¹²¹ <https://www.epa.gov/isa/integrated-science-assessment-isa-oxides-nitrogen-health-criteria>; <https://www.epa.gov/isa/integrated-science-assessment-isa-sulfur-oxides-health-criteria>.

¹²² See additional discussion of the preamble to the proposed rule.

¹²³ See <https://www.ansi.org> and <https://www.asme.org>.

sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

2. You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16.

3. You must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.

5. This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 and conditions 1 to 4 above is on the facility, DCOT operator, and DCOT vendor. The ASTM D7520–16 method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. This method is available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036.¹²⁴ The standard is available to everyone at a cost determined by ASTM. The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

• The EPA is incorporating by reference the VCS ASTM D6784–24, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” as an acceptable alternative to EPA Method 29 (portion for Hg only) as a method for measuring elemental, oxidized, particle-bound, and total Hg concentrations ranging from approximately 0.5 to 100 micrograms per normal cubic meter. This test

method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results. ASTM D6784–24 allows for the use of either an EPA Method 17 sampling configuration with a fixed (single) point where the flue gas is not stratified, or an EPA Method 5 sampling configuration with a multi-point traverse. This updated 2024 version of the standard includes additional procedures that make the method applicable to sources with high levels of HCl and low levels of SO₂ in the flue gas. These methods are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036.¹²⁵ The standards are available to everyone at a cost determined by ASTM. The costs of obtaining these methods are not a significant financial burden, making the methods reasonably available.

• The EPA also cited the use of facility operator certification standard ASME QRO–1–2005 (R2015), Standard for the Qualification and Certification of Resource Recovery Facility Operators. The 1995 rule cited a certification for facility operator ASME QRO–1–1994. Since that time, ASME has released a 2005 version as the most recent one available. This certification standard is intended as a qualification and certification program for shift supervisors and chief facility supervisors at large MWC facilities and includes both provisional and full certification levels. Knowledge areas covered by the certification standard include, but are not limited to, refuse and ash handling, combustion processing, steam cycle, electrical, environmental controls, safety, and administration (chief facility operator only). This standard is available at the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.¹²⁶ The standard is available to everyone at a cost determined by ASME. The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

Additionally, there were two VCS incorporated by reference into current subpart Cb and subpart Eb that the EPA is incorporating into new subparts VVVV and WWWW:

• The EPA is incorporating by reference section 4 of ASME PTC 4.1–1964 (Reaffirmed 1991), Power Test Codes: Test Code for Steam Generating Units (with 1968 and 1969 Addenda). This code provides instructions and

rules for conducting performance tests of fuel-fired steam generators. For context, this code is incorporated within the large municipal waste combustor standards as the method to calculate the steam or feed water flow rate of the combustor. This standard is available at the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.¹²⁷ The standard is available to everyone at a cost determined by ASME. The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

• The EPA is incorporating by reference ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th Edition (1971) (Redesignated ASME PTC 19.5–2004, Flow Measurement). This document describes methods of flow measurement, including differential, pulsating, sonic and ultrasonic metering techniques, among others. For context, this code is incorporated within the large municipal waste combustor standards as recommended guidance on the design, construction, installation, calibration and use of nozzles and orifices for steam or feed water flowmeters. This standard is available at the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.¹²⁸ The standard is available to everyone at a cost determined by ASME. The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for Large Municipal Waste Combustors NSPS and EG*, which is available in the docket for this action.

Under 40 CFR 60.8(b) and 60.13(i) of subpart A of the general provisions, a source may apply to the EPA to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of Congress and to the Comptroller General of the United States. This action is a “major rule” as defined by 5 U.S.C. 804(2).

¹²⁴ See <https://www.astm.org>.

¹²⁵ See <https://www.astm.org>.

¹²⁶ <https://www.asme.org>.

¹²⁷ <https://www.asme.org>.

¹²⁸ See <https://www.asme.org>.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Lee Zeldin,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 60 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

- 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

- 2. Amend § 60.17 by:
■ a. Revising paragraphs (g)(1), (g)(13), and (14);
■ b. Adding paragraph (g)(18);
■ c. Redesignating paragraphs (h)(215) through (h)(239) as (h)(216) through (h)(240);
■ d. Adding paragraph (h)(215); and
■ e. Revising newly redesignated paragraph (h)(220).

The revisions and additions read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(g) * * *

(1) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th Edition (1971), IBR approved for §§ 60.58a(h), 60.58b(i), 60.1320(a), 60.1810(a), 60.5995(a), and 60.6550(a).

* * * * *

(13) ASME PTC 4.1–1964 (Reaffirmed 1991), Power Test Codes: Test Code for Steam Generating Units (with 1968 and 1969 Addenda), IBR approved for §§ 60.46b, 60.58a(h), 60.58b(i), 60.1320(a), 60.1810(a), 60.5995(a), and 60.6550(a).

(14) ASME/ANSI PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], Issued August 31, 1981; IBR approved for §§ 60.56c(b); 60.63(f); 60.106(e); 60.104a(d), (h), (i), and (j); 60.105a(b), (d), (f), and (g); 60.106a(a); 60.107a(a), (c), and (d); 60.275(e); 60.275a(e); 60.275b(e); Tables 1 and 3 to subpart EEEE; Tables 2 and 4 to subpart FFFF; Table 2 to subpart JJJJ; §§ 60.285a(f); 60.396(a); 60.614a(b); 60.664a(b); 60.704(b); 60.704a(b); 60.2145(s) and (t);

60.2710(s) and (t); 60.2730(q); 60.4415(a); 60.4415a(b); 60.4900(b); 60.5220(b); Tables 1 and 2 to subpart LLLL; Tables 2 and 3 to subpart MMMM; §§ 60.5406(c); 60.5406a(c); 60.5406b(c); 60.5407a(g); 60.5407b(g); 60.5413(b); 60.5413a(b) and (d); 60.5413b(b) and (d); 60.5413c(b) and (d); 60.5930(a); Tables 3 and 4 to subpart VVVV; 60.6485(a); Tables 4 and 5 to subpart WWWW.

* * * * *

(18) ASME QRO–1–2005 (R2015), Standard for the Qualification and Certification of Resource Recovery Facility Operators; IBR approved for §§ 60.54b(a) and (b); 60.5865(a) and (c); 60.6420(a) and (c).

(h) * * *

(215) ASTM D6784–24, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), approved March 1, 2024; IBR approved for Table 4 to subpart VVVV; Table 5 to subpart WWWW.

* * * * *

(220) ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016; IBR approved for §§ 60.123(c); 60.123a(c); 60.271(k); 60.272(a) and (b); 60.273(c) and (d); 60.274(i); 60.275(e); 60.276(c); 60.271a; 60.272a(a) and (b); 60.273a(c) and (d); 60.274a(h); 60.275a(e); 60.276a(f); 60.271b; 60.272b(a) and (b); 60.273b(c) and (d); 60.274b(h); 60.275b(e); 60.276b(f); 60.374a(d); 60.2972(a); Tables 1, 1a, and 1b to subpart EEEE; 60.3067(a); Tables 2 and 2a to subpart FFFF; 60.6145; Table 4 to subpart VVVV; 60.6685; and Table 5 to subpart WWWW.

* * * * *

Subpart Cb—Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994

- 3. Amend § 60.32b by adding paragraph (o) to read as follows:

§ 60.32b Designated facilities.

* * * * *

(o) Municipal waste combustors subject to this subpart will remain subject to this subpart until the municipal waste combustor must comply with the requirements of an approved state plan or federal plan that implements subpart WWWW of this part (Emission Guidelines and Compliance Times for Large Municipal Waste Combustors Constructed on or Before January 23, 2024).

Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996

- 4. Amend § 60.50b by adding paragraph (q) to read as follows:

§ 60.50b Applicability and delegation of authority.

* * * * *

(q) Municipal waste combustors that commenced construction after September 20, 1994 but no later than January 23, 2024 or that commenced reconstruction or modification after June 19, 1996, but no later than September 10, 2026, remain subject to this subpart until the municipal waste combustor must comply with the requirements of an approved state plan or federal plan that implements subpart WWWW of this part (Emission Guidelines and Compliance Times for Large Municipal Waste Combustors Constructed on or Before January 23, 2024).

- 5. Amend § 60.54b by revising paragraphs (a) and (b) to read as follows:

§ 60.54b Standards for municipal waste combustor operator training and certification.

(a) No later than the date 6 months after the date of startup of an affected facility or on December 19, 1996, whichever is later, each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers [QRO–1–2005 (incorporated by reference, see § 60.17)] or a state certification program.

(b) No later than the date 6 months after the date of startup of an affected facility or on December 19, 1996, whichever is later, each chief facility operator and shift supervisor shall have completed full certification or shall have scheduled a full certification exam with either the American Society of Mechanical Engineers [QRO–1–2005 (incorporated by reference, see § 60.17)] or a state certification program.

* * * * *

- 6. Add subpart VVVV consisting of §§ 60.5680 to 60.6145 to read as follows:

Subpart VVVV—Standards of Performance for Large Municipal Waste Combustors

Sec.

Introduction

60.5680 What does this subpart do?

60.5685 When does this subpart become effective?

Applicability

- 60.5690 Does this subpart apply to my municipal waste combustor?
- 60.5695 What is a new municipal waste combustor?
- 60.5700 Does this subpart allow any exemptions?
- 60.5705 Do other new source performance standards also apply to my municipal waste combustor?
- 60.5710 What authorities to enforce these federal new source performance standards can the Administrator delegate to a state agency?
- 60.5715 How are these new source performance standards structured?
- 60.5720 Do all five components of these new source performance standards apply at the same time?
- 60.5725 Are there different subcategories of municipal waste combustors within this subpart?

Preconstruction Requirements: Materials Separation Plan

- 60.5730 Who must submit a materials separation plan?
- 60.5735 What is a materials separation plan?
- 60.5740 What steps must I complete for my materials separation plan?
- 60.5745 What must I include in my draft materials separation plan?
- 60.5750 How do I make my draft materials separation plan available to the public?
- 60.5755 When must I accept comments on the materials separation plan?
- 60.5760 Where and when must I hold a public meeting on my draft materials separation plan?
- 60.5765 What must I do with any public comments I receive during the public comment period on my draft materials separation plan?
- 60.5770 What must I do with my revised materials separation plan?
- 60.5775 What must I include in the public meeting on my revised materials separation plan?
- 60.5780 What must I do with any public comments I receive on my revised materials separation plan?
- 60.5785 How do I submit my final materials separation plan?

Preconstruction Requirements: Siting Analysis

- 60.5790 Who must submit a siting analysis?
- 60.5795 What is a siting analysis?
- 60.5800 What steps must I complete for my siting analysis?
- 60.5805 What must I include in my siting analysis?
- 60.5810 How do I make my siting analysis available to the public?
- 60.5815 When must I accept comments on the siting analysis and revised materials separation plan?
- 60.5820 Where and when must I hold a public meeting on the siting analysis?
- 60.5825 What must I do with any public comments I receive during the public comment period on my siting analysis?

60.5830 How do I submit my siting analysis?

Good Combustion Practices: Operator Training

- 60.5835 What types of training must I do?
- 60.5840 Who must complete the operator training course? By when?
- 60.5845 Who must complete the site-specific training course?
- 60.5850 What site-specific training must I provide?
- 60.5855 What information must I include in the site-specific operating manual?
- 60.5860 Where must I keep the site-specific operating manual?

Good Combustion Practices: Operator Certification

- 60.5865 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?
- 60.5870 After the required date for operator certification, who may operate the municipal waste combustor?
- 60.5875 What if all the certified operators must be temporarily offsite?

Good Combustion Practices: Operating Requirements

- 60.5880 What are the operating practice requirements for my municipal waste combustor?
- 60.5885 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

Emission Limits

- 60.5890 What pollutants are regulated by this subpart?
- 60.5895 What emission limits must I meet? By when?
- 60.5900 What happens to the emission limits during periods of startup, shutdown, and malfunction?

Continuous Emission Monitoring

- 60.5905 What types of continuous emission monitoring must I perform?
- 60.5910 What continuous emission monitoring systems must I install for gaseous pollutants?
- 60.5915 How are the data from the continuous emission monitoring systems used?
- 60.5920 How do I make sure my continuous emission monitoring systems are operating correctly?
- 60.5925 What is my schedule for evaluating continuous emission monitoring systems?
- 60.5930 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?
- 60.5935 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems?
- 60.5940 How do I convert my 1-hour arithmetic averages into the appropriate averaging times and units?
- 60.5945 What is required for my continuous opacity monitoring system and how are the data used?
- 60.5950 What additional requirements must I meet for the operation of my

continuous emission monitoring systems and continuous opacity monitoring system?

- 60.5955 What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

Stack Testing

- 60.5960 What types of stack tests must I conduct?
- 60.5965 How are the stack test data used?
- 60.5970 What schedule must I follow for the stack testing?
- 60.5975 What procedures and test methods must I use to stack test?
- 60.5980 May I conduct stack testing less often?
- 60.5985 May I conduct continuous monitoring or sampling in lieu of stack testing?

Other Monitoring Requirements

- 60.5990 Must I meet other requirements for continuous monitoring?
- 60.5995 How do I monitor the load of my municipal waste combustor?
- 60.6000 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?
- 60.6005 How do I monitor the injection rate of activated carbon?
- 60.6010 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems?
- 60.6015 What requirements must I meet for estimating my municipal waste combustor capacity?

Recordkeeping

- 60.6020 What records must I keep?
- 60.6025 Where must I keep my records and for how long?
- 60.6030 What records must I keep for the materials separation plan and siting analysis?
- 60.6035 What records must I keep for operator training and certification?
- 60.6040 What records must I keep for stack tests?
- 60.6045 What records must I keep for continuously monitored pollutants or parameters?
- 60.6050 What records must I keep for municipal waste combustors that use activated carbon?

Reporting

- 60.6055 What reports must I submit before I submit my notice of construction?
- 60.6060 What must I include in my notice of construction?
- 60.6065 What reports must I submit after I submit my notice of construction and in what form?
- 60.6070 What are the appropriate units of measurement for reporting my data?
- 60.6075 When must I submit the initial performance test report?
- 60.6080 What must I include in my initial performance test report?
- 60.6085 When must I submit the annual report?
- 60.6090 What must I include in my annual report?

60.6095 What must I do if I am out of compliance with the requirements of this subpart?

60.6100 If a semiannual report is required, when must I submit it?

60.6105 What must I include in the semiannual out-of-compliance reports?

60.6110 Can reporting dates be changed?

Air Curtain Incinerators That Burn 100 Percent Wood Waste, Clean Lumber, and/or Yard Waste

60.6115 What is an air curtain incinerator?

60.6120 What is yard waste?

60.6125 What are the emission limits for air curtain incinerators that burn 100 percent wood waste, clean lumber, and yard waste?

60.6130 How must I monitor opacity for air curtain incinerators that burn 100 percent wood waste, clean lumber, and yard waste?

60.6135 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood waste, clean lumber, and yard waste?

Equations

60.6140 What equations must I use?

Definitions

60.6145 What definitions apply to this subpart?

Introduction

§ 60.5680 What does this subpart do?

This subpart establishes new source performance standards for municipal waste combustors with a combustion capacity greater than 250 tons per day of municipal solid waste.

§ 60.5685 When does this subpart become effective?

This subpart takes effect May 11, 2026. Some of the requirements in this subpart apply to municipal waste combustor planning and must be completed before construction is commenced on the municipal waste combustor. In particular, the preconstruction requirements in §§ 60.5730 through 60.5830 must be completed prior to commencing construction. Other requirements (such as the emission limits) apply when the municipal waste combustor begins operation.

Applicability

§ 60.5690 Does this subpart apply to my municipal waste combustor?

Yes, if your municipal waste combustor meets both of the following criteria:

(a) Your municipal waste combustor is a new municipal waste combustor.

(b) Your municipal waste combustor has the capacity to combust greater than 250 tons per day of municipal solid waste.

§ 60.5695 What is a new municipal waste combustor?

(a) A new municipal waste combustor meets either of two criteria:

(1) Commenced construction after January 23, 2024.

(2) Commenced reconstruction or modification after September 10, 2026.

(b) This subpart does not apply to your municipal waste combustor if you make physical or operational changes to an existing municipal waste combustor primarily to comply with the emission guidelines in subpart WWW of this part. Such changes do not qualify as reconstruction or modification under this subpart.

§ 60.5700 Does this subpart allow any exemptions?

(a) *Municipal waste combustors that combust less than 11 tons per day.* You are exempt from this subpart if you meet each of the following four requirements:

(1) Your municipal waste combustor that is capable of combusting more than 250 tons per day of municipal solid waste is subject to a federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than or equal to 11 tons per day.

(2) You notify the Administrator that the unit qualifies for this exemption. Beginning September 10, 2026, you must submit the notification and copy of the federally enforceable permit required by (a)(2) and (3) of this section as a portable document format (PDF) file electronically according to § 60.6065(d).

(3) You provide the Administrator with a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day. Beginning September 10, 2026, you must submit the notification and copy of the federally enforceable permit required by (a)(2) and (3) of this section as a portable document format (PDF) file electronically according to § 60.6065(d).

(4) You keep daily records of the amount of municipal solid waste combusted.

(b) *Small power production facilities.* You are exempt from this subpart if you meet each of the following four requirements:

(1) Your unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) Your unit combusts homogeneous waste (such as automotive tires or used oil, but excluding refuse-derived fuel) to produce electricity.

(3) You notify the Administrator that the unit qualifies for this exemption. Beginning September 10, 2026, you

must submit this notification as a PDF file electronically according to § 60.6065(d).

(4) You provide the Administrator with data documenting that the unit qualifies for this exemption.

(c) *Cogeneration facilities.* You are exempt from this subpart if you meet each of the following four requirements:

(1) Your unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) Your unit combusts homogeneous waste (such as automotive tires or used oil but excluding refuse-derived fuel) to produce electricity and steam or other forms of useful energy (such as heat) used for industrial, commercial, heating, or cooling purposes.

(3) You notify the Administrator that the unit qualifies for this exemption.

Beginning September 10, 2026, you must submit this notification as a PDF file electronically according to § 60.6065(d).

(4) You provide the Administrator with documentation that the unit qualifies for this exemption.

(d) *Municipal waste combustors that combust only tires.* You are exempt from this subpart if you meet each of the following three requirements:

(1) Your municipal waste combustor combusts a single-item waste stream of tires.

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You provide the Administrator with data documenting that the unit qualifies for this exemption. Beginning September 10, 2026, you must submit the notification and data required under (d)(2) and (3) of this section as a PDF file electronically according to § 60.6065(d).

(e) *Hazardous waste combustion units.* You are exempt from this subpart if you get a permit for your unit under section 3005 of the Solid Waste Disposal Act.

(f) *Materials recovery units.* You are exempt from this subpart if your unit combusts waste primarily to recover metals. Primary and secondary smelters qualify for the exemption.

(g) *Co-fired combustors.* You are exempt from this subpart if you meet each of the following four requirements:

(1) Your municipal waste combustor is a co-fired combustor as defined under § 60.6145.

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You provide the Administrator with a copy of the federally enforceable permit (specified in the definition of cofired combustor in § 60.6145). Beginning September 10, 2026, you submit the notification and copy of the

federally enforceable permit required under (g)(2) and (3) of this section as a PDF file electronically according to § 60.6065(d).

(4) You record the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(h) *Plastics/rubber recycling units.* You are exempt from this subpart if you meet each of the following five requirements:

(1) Your pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined under “Definitions” (§ 60.6145).

(2) You notify the Administrator that the unit qualifies for this exemption. Beginning September 10, 2026, you must submit this notification as a PDF file electronically according to § 60.6065(d).

(3) You keep and maintain records of the weights, each calendar quarter, of plastics, rubber, and rubber tires processed.

(4) You keep and maintain records of the weights, each calendar quarter, of chemical plant feed stocks and petroleum refinery feedstocks produced and marketed.

(5) You keep and maintain records of the name and address of the purchaser of those feed stocks.

(i) *Units that combust fuels made from products of plastics/rubber recycling plants.* You are exempt from this subpart if you meet two requirements:

(1) Your unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units.

(2) Your unit does not combust any other municipal solid waste.

(j) *Cement kilns.* You are exempt from this subpart if your cement kiln combusts municipal solid waste.

(k) *Air curtain incinerators.* If your air curtain incinerator (see § 60.6145 for definition) combusts 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste, you must meet only the requirements under “Air Curtain Incinerators That Burn 100 Percent Wood Waste, Clean Lumber, and Yard Waste” (§§ 60.6115 through 60.6135). If your air curtain incinerator combusts municipal solid waste other than 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard

waste, you are subject to all provisions of this subpart.

§ 60.5705 Do other new source performance standards also apply to my municipal waste combustor?

If this subpart VVVV applies to your municipal waste combustor, then subparts Db, E, Ea, or Eb of this part do not apply to your municipal waste combustor.

§ 60.5710 What authorities to enforce these federal new source performance standards can the Administrator delegate to a state agency?

(a) The U.S. EPA Administrator retains the following authorities which are not transferred to a state:

(1) Approval of exemption claims in § 60.5700(a), (b), (c), (d), (g), and (h).

(2) Enforceability under federal law of the federally enforceable (as defined in § 60.6145) permits specified in § 60.5700(a) and (g).

(3) Determination of compliance with the siting requirements as specified in § 60.5790.

(4) Acceptance of relationship between carbon dioxide and oxygen as part of initial and annual performance tests as specified in §§ 60.6080(g) and 60.6090(k).

(5) Approval of other monitoring systems used to obtain emissions data when data is not obtained by CEMS as specified in §§ 60.5955 and 60.5985(g)(11).

(6) Approval of a site-specific monitoring plan for the continuous emission monitoring system specified in § 60.5985(c) and (d) or the continuous automated sampling system specified in § 60.5985(g)(10) and (h) of this section.

(7) Approval of major alternatives to test methods.

(8) Approval of major alternatives to monitoring.

(9) Waiver of recordkeeping.

(10) Performance test and data reduction waivers under § 60.8(b).

(11) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

(b) The Administrator can delegate all other authorities in all other sections of this subpart to the state for direct state enforcement.

§ 60.5715 How are these new source performance standards structured?

These new source performance standards contain five major components:

(a) *Preconstruction requirements.*

(1) Materials separation plan.

(2) Siting analysis.

(b) *Good combustion practices.*

(1) Operator training.

(2) Operator certification.

(3) Operating requirements.

(c) *Emission limits.*

(d) *Monitoring and stack testing.*

(e) *Recordkeeping and reporting.*

§ 60.5720 Do all five components of these new source performance standards apply at the same time?

No, you must meet the preconstruction requirements before you commence construction of the municipal waste combustor. After the municipal waste combustor begins operation, you must meet all of the good combustion practices, emission limits, monitoring, stack testing, and most recordkeeping and reporting requirements.

§ 60.5725 Are there different subcategories of municipal waste combustors within this subpart?

The requirements for new municipal waste combustors of all types are identical except that carbon monoxide emissions limits are set separately for mass burn, modular, and refuse-derived fuel combustor types (see Table 1 to Subpart VVVV).

Preconstruction Requirements: Materials Separation Plan

§ 60.5730 Who must submit a materials separation plan?

(a) You must prepare a materials separation plan for your municipal waste combustor if you commence construction of a new large municipal waste combustor after January 23, 2024.

(b) You must prepare a materials separation plan if you are required to submit an initial application for a construction permit, under 40 CFR part 51, subpart I, or part 52, as applicable, for the reconstruction or modification of your municipal waste combustor.

§ 60.5735 What is a materials separation plan?

The plan identifies a goal and an approach for separating certain components of municipal solid waste for a given service area prior to waste combustion and making them available for recycling.

§ 60.5740 What steps must I complete for my materials separation plan?

(a) For your materials separation plan, you must complete all of the following nine steps:

(1) Prepare a draft materials separation plan.

(2) Make your draft plan available to the public.

(3) Hold a public meeting on your draft plan.

(4) Prepare responses to public comments received during the public comment period on your draft plan.

(5) Prepare a revised materials separation plan.

(6) Discuss the revised plan at the public meeting for review of the siting analysis.

(7) Prepare responses to public comments received on your revised plan.

(8) Prepare a final materials separation plan.

(9) Submit the final materials separation plan.

(b) You may use analyses conducted under the requirements of 40 CFR part 51, subpart I, or part 52, to comply with some of the materials separation requirements of this subpart.

§ 60.5745 What must I include in my draft materials separation plan?

(a) You must prepare and submit a draft materials separation plan for your municipal waste combustor and its service area.

(b) Your draft materials separation plan must identify a goal and an approach for separating certain components of municipal solid waste for a given service area prior to waste combustion and making them available for recycling. A materials separation plan may include such elements as drop off facilities, buy-back or deposit-return incentives, programs for curbside pickup, and centralized systems for mechanical separation.

(c) Your materials separation plan may include different goals or approaches for different subareas in the service area.

(d) Your materials separation plan may exclude materials separation activities for certain subareas or, if warranted, the entire service area.

§ 60.5750 How do I make my draft materials separation plan available to the public?

(a) Distribute your draft materials separation plan to the principal public libraries in the area where you will construct the municipal waste combustor.

(b) Publish a notice of a public meeting in the principal newspapers that serve two areas:

(1) The area where you will construct the municipal waste combustor.

(2) The areas where the waste that your municipal waste combustor combusts will be collected.

(c) Include six items in your notice of the public meeting:

- (1) The date of the public meeting.
- (2) The time of the public meeting.
- (3) The location of the public meeting.
- (4) The location of the public libraries where the public can find your materials separation plan. Include the normal business hours of each library.

(5) An agenda of the topics that will be discussed at the public meeting.

(6) The beginning and ending dates of the public comment period on your draft materials separation plan.

§ 60.5755 When must I accept comments on the materials separation plan?

(a) You must accept verbal comments at the public meeting.

(b) You must accept written comments any time during the period that begins on the date the document is distributed to the principal public libraries and ends 30 days after the date of the public meeting.

§ 60.5760 Where and when must I hold a public meeting on my draft materials separation plan?

(a) You must hold a public meeting and accept comments on your draft materials separation plan.

(b) You must hold the public meeting in the county where you will construct the municipal waste combustor.

(c) You must schedule the public meeting to occur 30 days or more after you make your draft materials separation plan available to the public.

(d) You may combine the public meeting with any other public meeting required as part of any other federal, state, or local permit review. However, you may not combine it with the public meeting required for the siting analysis under “Preconstruction Requirements: Siting Analysis” (§ 60.5820).

(e) You are encouraged to address eight topics at the public meeting for your draft materials separation plan:

(1) Expected size of the service area for your municipal waste combustor.

(2) Amount of waste generation (waste collection) anticipated in the service area.

(3) Types and estimated amounts of materials proposed for separation.

(4) Methods proposed for materials separation.

(5) Amount of residual waste for disposal.

(6) Alternate disposal methods for handling the residual waste.

(7) Where your responses to public comments on the draft materials separation plan will be available for inspection.

(8) Where your revised materials separation plan will be available for inspection.

(f) You must prepare a transcript of the public meeting on your draft materials separation plan.

§ 60.5765 What must I do with any public comments I receive during the public comment period on my draft materials separation plan?

You must do all of the following three steps:

(a) Prepare written responses to any public comments you received during the public comment period. Summarize the responses to public comments in a document that is separate from your revised materials separation plan.

(b) Make the comment response document available to the public (including distribution of the document at least to the principal public libraries used to announce the public meeting) in the service area where you will construct your municipal waste combustor.

(c) Prepare a revised materials separation plan for the municipal waste combustor that includes, as appropriate, changes made in response to any public comments you received during the public comment period.

§ 60.5770 What must I do with my revised materials separation plan?

You must do the following two tasks:

(a) As specified under “Reporting” (§ 60.6055), submit copies of all of the following five items to the Administrator on or before the date you submit the application for a construction permit under 40 CFR part 51, subpart I, or 40 CFR part 52. (If you are not required to submit an application for a construction permit under 40 CFR part 51, subpart I, or 40 CFR part 52, submit copies of the five items to the Administrator by the date of your notice of construction under § 60.6060):

(1) Your draft materials separation plan.

(2) Your revised materials separation plan.

(3) Your notice of the public meeting for your draft materials separation plan.

(4) A transcript of the public meeting on your draft materials separation plan.

(5) The document that summarizes your responses to the public comments you received during the public comment period on your draft materials separation plan.

(b) Make your revised materials separation plan available to the public as part of the distribution of the siting analysis procedures under “Preconstruction Requirements: Siting Analysis” (§ 60.5810).

§ 60.5775 What must I include in the public meeting on my revised materials separation plan and siting analysis?

As part of the public meeting for review of the siting analysis, as specified under “Preconstruction Requirements: Siting Analysis” (§ 60.5820), you must discuss the two following areas:

(a) How the revised materials separation plan has changed from your

draft materials separation plan discussed at the first public meeting (§ 60.5760).

(b) Questions about your revised materials separation plan.

§ 60.5780 What must I do with any public comments I receive on my revised materials separation plan?

(a) If you receive any comments on the revised materials separation plan, you must prepare written responses to any public comments and include them in the document that summarizes your responses to public comments on the siting analysis.

(b) Prepare a final materials separation plan that includes, as appropriate, changes made in response to any public comments you received on your revised materials separation plan.

§ 60.5785 How do I submit my final materials separation plan?

As specified under “Reporting” (§ 60.6060), submit your final materials separation plan to the Administrator as part of the initial notice of construction for the municipal waste combustor.

Preconstruction Requirements: Siting Analysis

§ 60.5790 Who must submit a siting analysis?

(a) You must prepare a siting analysis if you commence construction of a large municipal waste combustor after January 23, 2024.

(b) You must prepare a siting analysis if you are required to submit an initial application for a construction permit, under 40 CFR part 51, subpart I, or 40 CFR part 52, as applicable, for the reconstruction or modification of your municipal waste combustor.

§ 60.5795 What is a siting analysis?

The siting analysis addresses how your municipal waste combustor affects ambient air quality, visibility, soils, vegetation, and other relevant factors. The analysis shall consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to the public health or the environment.

§ 60.5800 What steps must I complete for my siting analysis?

(a) For your siting analysis, you must complete all of the following five steps:

- (1) Prepare an analysis.
- (2) Make your analysis available to the public.
- (3) Hold a public meeting on your analysis.
- (4) Prepare responses to public comments received on your analysis.
- (5) Submit your analysis.

(b) If you commence construction after January 23, 2024, you must prepare a siting analysis according to the requirements of 40 CFR part 51, subpart I, or 40 CFR part 52, as applicable, and must submit the siting analysis as part of the initial notification of construction. You may use analyses conducted under the requirements of 40 CFR part 51, subpart I, or part 52 to comply with some of the siting analysis requirements of this subpart.

§ 60.5805 What must I include in my siting analysis?

(a) Include an analysis of how your municipal waste combustor affects the following four areas:

- (1) Ambient air quality.
- (2) Visibility.
- (3) Soils.
- (4) Vegetation.

(b) Include an analysis of air pollution control alternatives that minimize, on a site-specific basis, the potential risks to the public health and the environment to the maximum extent practicable.

§ 60.5810 How do I make my siting analysis available to the public?

(a) Distribute your siting analysis and revised materials separation plan to the principal public libraries in the area where you will construct your municipal waste combustor.

(b) Publish a notice of a public meeting in the principal newspapers that serve the following two areas:

- (1) The area where you will construct your municipal waste combustor.
- (2) The areas where the waste that your municipal waste combustor combusts will be collected.
- (c) Include six items in your notice of the public meeting:
 - (1) The date of the public meeting.
 - (2) The time of the public meeting.
 - (3) The location of the public meeting.
 - (4) The location of the public libraries where the public can find your siting analysis and revised materials separation plan. Include the normal business hours of each library.

(5) An agenda of the topics that will be discussed at the public meeting.

(6) The beginning and ending dates of the public comment period on your siting analysis and revised materials separation plan.

§ 60.5815 When must I accept comments on the siting analysis and revised materials separation plan?

(a) You must accept verbal comments at the public meeting.

(b) You must accept written comments anytime during the period that begins on the date the document is distributed to the principal public libraries and ends 30 days after the date of the public meeting.

§ 60.5820 Where and when must I hold a public meeting on the siting analysis?

(a) You must hold a public meeting to discuss and accept comments on your siting analysis and your revised materials separation plan.

(b) You must hold the public meeting in the county where you will construct your municipal waste combustor.

(c) You must schedule the public meeting to occur 30 days or more after you make your siting analysis and revised materials separation plan available to the public.

(d) You must prepare a transcript of the public meeting on your siting analysis.

§ 60.5825 What must I do with any public comments I receive during the public comment period on my siting analysis?

If you receive any comments on the siting analysis, you must do the following three things:

(a) Prepare written responses to any public comments on your siting analysis and the revised materials separation plan you received during the public comment period. Summarize the responses to public comments in a document that is separate from your materials separation plan and siting analysis.

(b) Make the document summarizing responses to public comments available to the public in the service area where you will construct your municipal waste combustor. You must distribute the document to all public libraries in the service area where the affected facility is to be located, including the public libraries used to announce the meeting.

(c) Prepare a final siting analysis for the municipal waste combustor that includes, as appropriate, changes made in response to any public comments you received during the public comment period.

§ 60.5830 How do I submit my siting analysis?

As specified under “Reporting” (§ 60.6060), submit all four of the following items as part of the notice of construction:

- (a) Your final siting analysis.
- (b) Your notice of the public meeting on your siting analysis.
- (c) A transcript of the public meeting on your siting analysis.
- (d) The document that summarizes your responses to the public comments you received during the public comment period.

Good Combustion Practices: Operator Training**§ 60.5835 What types of training must I do?**

There are two types of required training:

- (a) Training of operators of municipal waste combustors using the U.S. Environmental Protection Agency (EPA) or a state-approved training course.
- (b) Training of plant personnel using a site-specific training course.

§ 60.5840 Who must complete the operator training course? By when?

(a) Three types of employees must complete the EPA or state-approved operator training course:

- (1) Chief facility operators.
- (2) Shift supervisors.
- (3) Control room operators.

(b) Those employees must complete the operator training course by the later of three dates:

- (1) Six months after your municipal waste combustor initial startup.
- (2) September 10, 2026.
- (3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustor.

§ 60.5845 Who must complete the site-specific training course?

All employees with responsibilities that affect how a municipal waste combustor operates must complete the site-specific training course, this includes at least six types of employees:

- (a) Chief facility operators.
- (b) Shift supervisors.
- (c) Control room operators.
- (d) Ash handlers.
- (e) Maintenance personnel.
- (f) Crane or load handlers.

§ 60.5850 What site-specific training must I provide?

For site-specific training, you must do all of the following four things:

(a) For training at a particular facility, develop a site-specific operating manual for that facility by the later of two dates:

- (1) Six months after your municipal waste combustor initial startup.
- (2) September 10, 2026.
- (b) Establish a training program to review the site-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustor. Complete the initial review by the later of three dates:

- (1) Six months after your municipal waste combustor initial startup.
- (2) September 10, 2026.
- (3) The date prior to the date an employee assumes responsibilities that affect operation of the municipal waste combustor.

(c) Update your manual annually.

(d) Following the initial review, review your operating manual with staff annually.

§ 60.5855 What information must I include in the site-specific operating manual?

You must include all of the following 11 items in the operating manual for your facility:

- (a) A summary of all applicable standards in this subpart.
- (b) A description of the basic combustion theory that applies to a municipal waste combustor.
- (c) Procedures for receiving, handling, and feeding municipal solid waste.
- (d) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustor.
- (e) Procedures for maintaining a proper level of combustion air supply.
- (f) Procedures for operating the municipal waste combustor in compliance with the standards contained in this subpart.
- (g) Procedures for responding to periodic upset or off-specification conditions.
- (h) Procedures for minimizing carryover of particulate matter.
- (i) Procedures for handling ash.
- (j) Procedures for monitoring emissions from the municipal waste combustor.
- (k) Procedures for recordkeeping and reporting.

§ 60.5860 Where must I keep the site-specific operating manual?

You must keep your operating manual in a readily accessible location at your facility. It must be available for review or inspection for all persons required to undergo training as specified in § 60.5850. The operating manual and records of training as specified in § 60.6035 shall be available for inspection by the EPA or its delegated enforcement agency upon request.

Good Combustion Practices: Operator Certification**§ 60.5865 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?**

(a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers (QRO-1-2005) (incorporated by reference, see § 60.17) or a current provisional operator certification from your state certification program, by the later of three dates:

- (1) Six months after the municipal waste combustor initial startup.

(2) September 10, 2026.

(3) Six months after they transfer to the municipal waste combustor or 6 months after they are hired to work at the municipal waste combustor.

(b) Each chief facility operator and shift supervisor must obtain and maintain a current provisional certification, and must complete the full certification or be scheduled to take the full certification exam, by the later of three dates:

(1) Six months after the municipal waste combustor initial startup.

(2) September 10, 2026.

(3) For a provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position, a full certification exam must be completed within 6 months after they transfer to the municipal waste combustor or 6 months after they are hired to work at the municipal waste combustor.

(c) Each chief facility operator and shift supervisor must take one of three actions:

- (1) Obtain and maintain a current provisional operator certification from the American Society of Mechanical Engineers or a state certification program in your state.
- (2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO-1-2005) (incorporated by reference, see § 60.17).
- (3) Schedule a full certification exam with your state certification program.

§ 60.5870 After the required date for operator certification, who may operate the municipal waste combustor?

After the required date for full or provisional certifications, you must not operate your municipal waste combustor unless one of four employees is on duty:

- (a) A fully certified chief facility operator.
- (b) A fully certified shift supervisor.
- (c) A provisionally certified chief facility operator or a provisionally certified shift supervisor who is scheduled to take the full certification exam specified in § 60.5865.

§ 60.5875 What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustor may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, you must meet one of the three following criteria:

(a) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less, and no other certified operator is onsite, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor.

(b) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must record the period when the certified chief facility operator and certified shift supervisor are offsite and include that information in the annual report as specified under § 60.6090(l).

(c) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must take the following two actions:

(1) Notify the Administrator in writing. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite as expeditiously as practicable. Beginning September 10, 2026, submit this notification as a PDF file electronically according to § 60.6065(d).

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks following the initial notification. If the Administrator notifies you that your status report or corrective action summary is disapproved, the municipal waste combustor may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Administrator withdraws the disapproval, municipal waste combustor operation may continue. Beginning September 10, 2026, submit this status report as a PDF file electronically according to § 60.6065(d).

(d) A provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position at the municipal waste combustor may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Administrator for up to 6 months before taking the ASME QRO certification exam as specified in § 60.5865.

Good Combustion Practices: Operating Requirements

§ 60.5880 What are the operating practice requirements for my municipal waste combustor?

(a) You must meet the carbon monoxide emission limits specified in Table 1 to Subpart VVVV within 60 days of your municipal waste combustor reaching the maximum load level at which it will operate, but no later than 180 days after its initial startup.

(b) You must not operate your municipal waste combustor at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustor (4-hour block average), as specified under “Definitions” (§ 60.6145) except as specified in paragraphs (b)(1) and (2) of this section. The averaging time is specified under § 60.5995.

(1) During the annual dioxins/furans or mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the municipal waste combustor load limit is not applicable if the provisions of paragraph (b)(2) of this section are met.

(2) The Administrator may waive in writing the municipal waste combustor load limit for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The municipal waste combustor load limit continues to apply, and remains enforceable, until and unless the Administrator grants the waiver.

(c) You must not operate your municipal waste combustor so that the temperature measured at the inlet of the particulate matter control device exceeds 17 °C above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified under “Definitions” (§ 60.6145) except as specified in paragraphs (c)(1) and (2) of this section. The averaging time is specified under § 60.6000. The requirements specified in this paragraph apply to each particulate matter control device used.

(1) During the annual dioxins/furans or mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the particulate matter control device temperature limitations are not applicable if the provisions of paragraph (c)(2) of this section are met.

(2) The Administrator may waive in writing the particulate matter control device temperature limits for the

purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The temperature limits continue to apply, and remain enforceable, until and unless the Administrator grants the waiver.

(d) If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, you must meet the requirements for activated carbon injection rate during dioxins/furans or mercury testing as specified in § 60.6005.

§ 60.5885 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

The operating requirements under this subpart apply at all times including periods of municipal waste combustor warmup, startup, shutdown, and malfunction. Monitoring data cannot be dismissed or excluded from compliance calculations during periods of startup, shutdown, or malfunction, but must be recorded and reported in accordance with the provisions of § 60.6045(e). The provisions applicable to periods of startup, shutdown, and malfunction of § 60.8(c) of subpart A of this part do not apply.

Emission Limits

§ 60.5890 What pollutants are regulated by this subpart?

Eleven pollutants, in four groupings, are regulated:

(a) Organics. Dioxins/furans.

(b) Metals.

(1) Cadmium.

(2) Lead.

(3) Mercury.

(4) Opacity.

(5) Particulate matter.

(c) Acid gases.

(1) Hydrogen chloride.

(2) Nitrogen oxides.

(3) Sulfur dioxide.

(d) Other.

(1) Carbon monoxide.

(2) Fugitive ash.

§ 60.5895 What emission limits must I meet? By when?

(a) You must meet the emission limits specified in Table 1 and Table 2 to Subpart VVVV. You must meet the limits 60 days after your municipal waste combustor reaches the maximum load level but no later than 180 days after its initial startup.

(b) The visible emissions of combustion ash discharged to the atmosphere from an ash conveying

system (including conveyor transfer points) must not exceed 5 percent of the observation period (*i.e.*, 9 minutes per 3-hour period), as determined by EPA Reference Method 22 observations as specified in § 60.5975(a). You must meet the limits 60 days after your municipal waste combustor reaches the maximum load level but no later than 180 days after its initial startup. This visible emission limit does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the visible emission limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems. This visible emissions limit does not apply to visible emissions that occur during repair and maintenance of the combustion ash conveying systems while the municipal waste combustor is not operating.

§ 60.5900 What happens to the emission limits during periods of startup, shutdown, and malfunction?

(a) The emission limits of this subpart apply at all times including periods of warmup, startup, shutdown, and malfunction. The provisions applicable to periods of startup, shutdown, and malfunction of § 60.11(c) of subpart A of this part do not apply.

Continuous Emission Monitoring

§ 60.5905 What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform all of the following four tasks:

- (a) Install continuous emission monitoring systems for certain gaseous pollutants.
- (b) Make sure your continuous emission monitoring systems are operating correctly.
- (c) Make sure you obtain the minimum amount of monitoring data.
- (d) Install a continuous opacity monitoring system for measuring opacity.

§ 60.5910 What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen (or carbon dioxide), sulfur dioxide, carbon monoxide, and nitrogen oxides to demonstrate compliance with the emission limits specified in Tables 1 and 2 to Subpart VVVV. Install the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, carbon monoxide, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) If you elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride in lieu of performance testing, you must install, calibrate, maintain, and operate continuous emissions monitoring systems for monitoring the particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions discharged to the atmosphere and continuous emissions monitoring systems for oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(c) You must install, evaluate, and operate each continuous emission monitoring system according to the "Monitoring Requirements" in § 60.13.

(d) You must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor carbon monoxide, sulfur dioxide, and nitrogen oxides. If you elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride, you must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride.

(e) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required, and you must follow the requirements in § 60.5930.

§ 60.5915 How are the data from the continuous emission monitoring systems used?

(a) You must use data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the emission limits specified in Tables 1 and 2 to Subpart VVVV. To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see § 60.5965.

(b) You may elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride to demonstrate continuous compliance with the emission limits specified in Table 2 to Subpart VVVV.

(c) For pollutants that you continuously monitor as described in paragraphs (a) and (b) of this section, you may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected

facility shall be established as specified in § 60.5930.

(d) For pollutants that you continuously monitor as described in paragraphs (a) and (b) of this section, demonstrate compliance with the emission limits in Tables 1 and 2 to Subpart VVVV by using the continuous emission monitoring system specified in § 60.5910 to collect the minimum amount of monitoring data specified in § 60.5935 and calculating the average emission concentration as specified in § 60.5940 and Table 4 to Subpart VVVV, as applicable.

§ 60.5920 How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides, and carbon monoxide and your continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate.

(b) Complete your initial evaluation of the continuous emission monitoring systems within 60 days after your municipal waste combustor reaches the maximum load level at which it will operate, but no later than 180 days after the initial startup of your municipal waste combustor, as specified under § 60.8 of subpart A of this part, or, for pollutants for which you elect to continuously monitor emissions and for which you previously determined compliance by conducting a performance test, within 180 days of notification of the Administrator of use of the continuous monitoring system, whichever is later.

(c) For initial and annual evaluations, you must collect data concurrently (or within 30 to 60 minutes) from: your oxygen (or carbon dioxide) continuous emission monitoring system; your sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emission monitoring systems, as appropriate; your continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate; and the appropriate test methods specified in Tables 3 and 4 to Subpart VVVV. Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in Table 3 to Subpart VVVV

(d) For continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides, and carbon monoxide, follow the quality assurance procedures in Procedure 1 of appendix F of this part for each continuous emission monitoring system. The procedures include annual relative accuracy test audit, daily calibration drift, and quarterly accuracy determinations. For continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate, follow the quality assurance procedures of the applicable procedures of appendix F as specified in Table 3 to Subpart VVVV or the site-specific monitoring plan.

§ 60.5925 What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual relative accuracy test audits of your continuous emission monitoring systems no less than 9 calendar months and no more than 15 calendar months following the previous performance test; you must complete five relative accuracy test audits in each 5-year calendar period.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in procedure 1 in appendix F of this part.

§ 60.5930 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring systems. You may reestablish the relationship during annual performance compliance tests. To establish the relationship, use three procedures:

(a) Use EPA Reference Method 3, 3A or 3B in appendix A of this part, or as an alternative the manual method portion of ASME PTC-19-10-1981—part 10 (incorporated by reference, see § 60.17), as applicable, to determine oxygen concentration at the location of your carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) Use the fuel-factor equation in EPA Reference Method 3B in appendix A of this part to determine the relationship between oxygen and carbon dioxide.

§ 60.5935 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides, and carbon monoxide, and, if you elect to continuously monitor emissions, the averages for particulate matter, cadmium, lead, mercury, or hydrogen chloride, are in the units specified in Tables 1 and 2 to Subpart VVVV at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level). The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2) of subpart A of this part. Do not correct CEMS data during warmup, startup, and shutdown, as defined in this subpart, to 7 percent oxygen. CEMS data during warmup, startup, and shutdown are used as measured.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Valid continuous monitoring system hourly averages shall be obtained for all times the affected facility is operated except as specified in § 60.13(e).

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emissions concentrations in accordance with § 60.5940.

§ 60.5940 How do I convert my 1-hour arithmetic averages into the appropriate averaging times and units?

(a) Use equation 1 in § 60.6140(a) to calculate emissions at 7 percent oxygen.

(b) Use the test methods in Table 4 to Subpart VVVV to calculate the 24-hr daily geometric average concentrations and percent reductions of sulfur dioxide emissions and the 24-hr daily arithmetic average for concentrations of nitrogen oxides.

(c) Calculate the 4-hour block or 24-hour daily arithmetic averages specified in Table 1 to Subpart VVVV (as applicable) from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7 percent oxygen (dry basis) for concentrations of carbon monoxide. CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7

percent oxygen, and are used as measured.

(d) If you elect to continuously monitor emissions of particulate matter, mercury, cadmium, lead, or hydrogen chloride, use EPA Reference Method 19, section 12.4.1, in appendix A of this part, to calculate a 24-hour daily block arithmetic average for emission concentrations.

§ 60.5945 What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to § 60.13.

(c) The output of the continuous opacity monitoring system shall be recorded on a 6-minute average basis.

(d) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in appendix B of this part. Complete the evaluation no later than 180 days after the date of the initial startup of the municipal waste combustor, as specified under § 60.8.

(e) Follow Table 4 to Subpart VVVV to establish the procedures and test methods to determine compliance with the opacity limit in Table 2 to Subpart VVVV. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§ 60.5950 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

(a) Use the required span values and applicable performance specifications in Table 3 to Subpart VVVV.

(b) For continuous emission monitoring systems measuring carbon monoxide, if your municipal waste combustor is subject to the 100 parts per million dry volume carbon monoxide standard, the relative accuracy criterion of 5 parts per million dry volume is calculated as the absolute value of the mean difference between the reference method and continuous emission monitoring systems.

§ 60.5955 What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

(a) When you are unable to obtain emissions of particulate matter, sulfur dioxide, or nitrogen oxides because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you

must obtain emissions data by using other monitoring systems as approved by the Administrator or EPA Reference Method 19 and provide, as necessary, valid emissions data for all times that the municipal waste combustor is operated.

(b) If you are unable to obtain emissions of carbon monoxide emissions because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you must obtain emissions data by using other monitoring systems as approved by the Administrator or EPA Reference Method 10 and provide, as necessary, valid emissions data for all times that the municipal waste combustor is operated.

(c) If you elect to continuously monitor mercury, cadmium, lead, or hydrogen chloride and you are unable to obtain emissions data because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you must obtain emissions data by using other monitoring systems as approved by the Administrator.

Stack Testing

§ 60.5960 What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, dioxins/furans, and fugitive ash in accordance with the methods specified in Table 4 to Subpart VVVV.

§ 60.5965 How are the stack test data used?

You must use results of stack tests for particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, dioxins/furans, and fugitive ash to demonstrate compliance with the emission limits in Table 2 to Subpart VVVV. When calculating total dioxins/furans, zero may be used for congeners that are below the estimated detection limit (EDL). For estimated maximum possible concentration (EMPC) results, zero may be used when the EMPC is below the EDL, otherwise the EMPC must be used in determining total dioxins/furans. To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see § 60.5910.

§ 60.5970 What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for sulfur dioxide, nitrogen oxides, and each of the pollutants listed in § 60.5960 within 60 days after your municipal

waste combustor reaches the maximum load level at which it will operate, but no later than 180 days after its initial startup.

(b) Conduct annual stack tests for the each of the pollutants listed in § 60.5960 after the initial stack test. Conduct each annual stack test no less than 9 calendar months and no more than 15 calendar months following the previous performance test, except as specified in § 60.5985 of this section. You must complete five performance tests in each 5-year calendar period.

§ 60.5975 What procedures and test methods must I use to stack test?

(a) Follow Table 4 to Subpart VVVV to establish the procedures and test methods, and other specific testing requirements for the different pollutants.

(b) Stack tests for all the pollutants must consist of at least three test runs, as specified in § 60.8, conducted under representative full load operating conditions. For particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, and dioxins/furans use the arithmetic average of the pollutant emission concentrations from the three test runs to determine compliance with the emission limits in Table 2 to Subpart VVVV. For fugitive ash, use the arithmetic average duration of visible emissions per hour as calculated from three 1-hr observations to determine compliance with the emission limits in Table 2 to Subpart VVVV.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in § 60.5910.

(d) You may request that compliance with emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in § 60.5930.

(e) Use equation 1 in § 60.6140(a) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis). See the individual test methods in Table 4 to Subpart VVVV for other required equations.

§ 60.5980 May I conduct stack testing less often?

(a) For annual performance stack tests for dioxins/furans, you may conduct annual stack tests on an alternate performance testing schedule for the purposes of evaluating system performance to establish new operating parameter levels, testing new

technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. You may test one unit for dioxins/furans and apply the dioxins/furans operating parameters to similarly designed and equipped units on site if you meet both of the following conditions. First, you have multiple municipal waste combustors onsite that are subject to this subpart. Second, all those municipal waste combustors have demonstrated levels of dioxins/furans emissions less than or equal to 5.5 nanograms per dry standard cubic meter (total mass) for 2 consecutive years. In that case, you may choose to conduct annual stack tests on only one municipal waste combustor per year at your facility. The provision only applies to performance stack testing for dioxins/furans emissions. You must meet the requirements in paragraphs (b) through (e) of this section.

(b) At a minimum, you must conduct a performance test for dioxins/furans emissions for one municipal waste combustor on an annual basis (no less than 9 calendar months and no more than 15 months following the previous performance test), and you must complete five performance tests in each 5-year calendar period. Each year a different municipal waste combustor must be tested, and the municipal waste combustors must be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable).

(1) If each annual performance test continues to indicate a dioxins/furans emission level less than or equal to 5.5 nanograms per dry standard cubic meter (total mass), you may continue to conduct a performance test on only one municipal waste combustor per year.

(2) If any annual performance test indicates a dioxins/furans emission level greater than 5.5 nanograms per dry standard cubic meter (total mass), you must conduct all subsequent annual performance tests on all municipal waste combustors. You must continue to conduct performance tests on all units annually until you can demonstrate dioxins/furans emission level less than or equal to 5.5 nanograms per dry standard cubic meter (total mass) through performance tests for all units subject to this subpart for 2 consecutive years.

(c) Upon meeting the requirements in paragraph (b) of this section for one affected facility, you may elect to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels for dioxins/furans as established in § 60.6005 to

similarly designed and equipped units on site.

(d) Upon testing each subsequent unit in accordance with the testing schedule established in paragraph (b) of this section, the dioxins/furans and mercury emissions of the subsequent unit must not exceed the dioxins/furans and mercury emissions measured in the most recent test of that unit prior to the revised operating parameter limits.

(e) If you follow the performance testing schedule specified in paragraph (b) of this section and apply the carbon injection system operating parameters to similarly designed and equipped units on site, you must follow the procedures specified in § 60.6090(j) for reporting, including the procedures specified in § 60.6090(i) for reporting the selection of this schedule.

§ 60.5985 May I conduct continuous monitoring or sampling in lieu of stack testing?

(a) In lieu of conducting performance stack tests according to the requirements of § 60.5960 to demonstrate continuous compliance for particulate matter, cadmium, lead, mercury, or hydrogen chloride, you may install, calibrate, maintain, and operate continuous emissions monitoring systems for monitoring emissions according to the requirements of § 60.5905 through § 60.5955. If you elect to continuously monitor emissions instead of conducting performance testing, you are not required to complete annual performance testing as specified in Table 4 to Subpart VVVV. If you elect to continuously monitor particulate matter emissions, you are not required to continuously monitor opacity as specified in § 60.5905(d) and § 60.5945.

(b) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, you must also meet the following requirements:

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(c) If you elect to install, calibrate, maintain, and operate a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, develop and submit for approval by EPA, a site-specific mercury, cadmium, lead, or hydrogen chloride monitoring plan that addresses the elements and requirements in paragraphs (c)(1) through (7) of this section.

(1) Installation of the continuous emission monitoring system sampling probe or other interface at a

measurement location relative to each municipal waste combustor such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(4) Provisions for periods when the continuous emission monitoring system is out of control, including the requirements described in paragraphs (c)(4)(i) through (iii) of this section:

(i) A continuous emission monitoring system is out of control if either of the following conditions are met: the zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard; or the continuous emission monitoring system fails a performance test audit (*e.g.*, cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit.

(ii) When the continuous emission monitoring system is out of control, you must take corrective action and repeat all necessary tests that indicate that the system is out of control until the performance requirements are within the applicable limits. The beginning of the out-of-control period is the hour you conduct a performance check (*e.g.*, calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and your successful demonstration that the system is within the allowable limits.

You may not use recorded data from the period the continuous emission monitoring system is out of control in data averages and calculations or to meet any data availability requirements.

(iii) You must submit all information concerning out-of-control periods for your continuous emission monitoring system, including start and end dates and hours and descriptions of corrective actions taken, in the annual or semiannual compliance reports required in § 60.6105(d).

(5) Ongoing data quality assurance procedures for continuous emission monitoring systems as described in paragraphs (c)(5)(i) and (ii) of this section.

(i) A continuous emission monitoring system quality control program. You must develop and submit to EPA for approval, upon request, a site-specific performance evaluation test plan for the continuous emission monitoring system performance evaluation required under paragraph (c)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (c)(5)(i)(A) through (c)(5)(i)(F) of this section.

(A) Initial and any subsequent calibration of the continuous emission monitoring system;

(B) Determination and adjustment of the calibration drift of the continuous emission monitoring system;

(C) Preventive maintenance of the continuous emission monitoring system, including spare parts inventory;

(D) Data recording, calculations, and reporting;

(E) Accuracy audit procedures, including sampling and analysis methods; and

(F) Program of corrective action for a malfunctioning continuous emission monitoring system.

(ii) Your performance evaluation test plan must include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data. The internal quality assurance program must include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous emission monitoring system performance, for example, plans for relative accuracy testing using the appropriate reference method in § 60.5920(c). The external quality assurance program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) You must conduct a performance evaluation of each continuous emission monitoring system in accordance with the site-specific monitoring plan.

(7) You must operate and maintain the continuous emission monitoring system in continuous operation according to the site-specific monitoring plan and procedures 5 and 6 of appendix F of this part.

(d) You may use a continuous emission monitoring system for mercury or hydrogen chloride following the date of approval of the site-specific monitoring plan required in paragraph (c) of this section. You may use a continuous emission monitoring system for cadmium or lead following the date a final performance specification applicable to a cadmium or lead monitor is published in the **Federal Register** and the date of approval of the site-specific monitoring plan required in paragraph (c) of this section.

(e) In lieu of conducting performance stack tests according to the requirements of § 60.5960 to demonstrate continuous compliance for mercury or dioxins/furans, you may install, calibrate, maintain, and operate a continuous automated sampling system for monitoring mercury or dioxins/furans emissions and record the output of the system. For dioxins/furans emissions, you must also analyze the sample using EPA Method 23.

(f) You may use a continuous automated sampling system for dioxins/furans following the date a final performance specification applicable to dioxins/furans from monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan.

(g) If you elect to use a continuous automated sampling system for dioxins/furans or mercury, you must meet the following requirements:

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(3) Complete your initial performance evaluation of the continuous automated sampling system no later than 180 days after the date of initial startup of your municipal waste combustor, as specified under § 60.8 of subpart A of this part, or, if you previously determined compliance by conducting a performance test, within 180 days of notification to the Administrator of use of the continuous automated sampling system, whichever is later.

(4) You may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in § 60.5930.

(5) Conduct an initial performance test for emissions as required under § 60.8 of subpart A of this part. Determine compliance with the emission limits in Table 2 to Subpart VVVV using the continuous automated

sampling system specified in paragraph (e) of this section to collect integrated samples and analyze emissions for the following time periods:

(i) For dioxins/furans, collect an integrated sample over each 2-week period. Analyze the collected samples using Method 23.

(ii) For mercury, collect an integrated sample over each 24-hour daily period. Analyze the sample according to the applicable final performance specification or the approved site-specific monitoring plan required by paragraph (h) of this section.

(6) Determine compliance with the emission limits in Table 2 to Subpart VVVV based on 2-week emission concentrations for dioxins/furans and on the 24-hour daily emission concentrations for mercury using samples collected at the system outlet. For mercury percent reductions, also use the corresponding 24-hour daily emission concentration samples collected at the system inlet. The emission concentrations shall be expressed in nanograms per dry standard cubic meter (total mass) for dioxins/furans and micrograms per dry standard cubic meter for mercury, corrected to 7 percent oxygen (dry basis). Do not correct CEMS data during warmup, startup, and shutdown to 7 percent oxygen. CEMS data during warmup, startup, and shutdown are used as measured.

(7) Beginning on the date two years after the final performance specification for continuous automated sampling systems for dioxins/furans is published in the **Federal Register** or on the date two years after approval of a site-specific monitoring plan, you must operate your continuous automated sampling system and collect emissions for all times that your municipal waste combustor is operating.

(8) Use all valid data in calculating emission concentrations.

(9) For mercury, operate the continuous automated sampling system according to Performance Specification 12B in appendix B of this part or, for mercury or dioxins/furans, the approved site-specific monitoring plan.

(10) If you elect to install, calibrate, maintain, and operate a continuous automated sampling system for dioxins/furans or mercury, develop and implement a site-specific monitoring plan as specified in paragraph (h) of this section. If you rely on a performance specification, you may refer to that document in addressing the applicable procedures and criteria. For mercury, you must incorporate procedure 5 of appendix F to this part into the site-specific monitoring plan.

(11) When you are unable to obtain emissions data because of continuous automated sampling system breakdowns, repairs, quality assurance checks, or adjustments, you must obtain parametric monitoring data by using other monitoring systems as approved by EPA.

(h) If you elect to install, calibrate, maintain, and operate a continuous automated sampling system for dioxins/furans or mercury, develop and submit for approval by EPA a site-specific monitoring plan that has sufficient detail to assure the validity of the continuous automated sampling system data and that addresses the elements and requirements in paragraphs (h)(1) through (7) of this section.

(1) Installation of the continuous automated sampling system sampling probe or other interface at a measurement location relative to each municipal waste combustor such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analytical method, and the data collection system.

(3) Performance evaluation procedures and acceptance criteria.

(4) Provisions for periods when the continuous automated sampling system is malfunctioning or is out of control, including the requirements described in paragraphs (h)(4)(i) through (iii) of this section.

(i) The site-specific monitoring plan must identify criteria for determining that the continuous automated sampling system is out of control, including periods when the sampling system is not collecting a representative sample or is malfunctioning, or when the analytical method does not meet site-specific quality criteria established in paragraph (h)(5) of this section.

(ii) When the continuous automated sampling system is out of control, take corrective action and repeat all necessary tests that indicate that the system is out of control until the performance requirements are within the applicable limits. The out-of-control period includes all hours that the sampling system was not collecting a representative sample or was malfunctioning, or hours represented by a sample for which the analysis did not meet the relevant quality criteria. You may not use emissions data from the period the continuous automated sampling system is out-of-control period to determine compliance with the emission limits or to meet any data availability requirements.

(iii) You must submit all information concerning out-of-control periods for your continuous automated sampling system, including start and end dates and hours, estimates of emissions during the out-of-control period and the basis of the estimate, and descriptions of corrective actions taken, in the annual or semiannual compliance reports required in § 60.6105(d).

(5) Ongoing data quality assurance procedures for continuous automated sampling systems as described in paragraphs (h)(5)(i) and (ii) of this section.

(i) A continuous automated sampling system and analysis quality control program. You must develop and submit to EPA for approval, upon request, a site-specific performance evaluation test plan for the continuous automated sampling system performance evaluation required in paragraph (h)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (h)(5)(i)(A) through (G) of this section.

(A) Correct placement, installation of the continuous automated sampling system such that the system is collecting a representative sample of gas;

(B) Initial and subsequent calibration of flow such that the sample collection rate of the continuous automated sampling system is known and verifiable;

(C) Procedures to assure representative (*e.g.*, proportional or isokinetic) sampling;

(D) Preventive maintenance of the continuous automated sampling system, including spare parts inventory and procedures for cleaning equipment, replacing sample collection media, or other servicing at the end of each sample collection period;

(E) Data recording and reporting, including an automated indicator and recording device to show when the continuous automated monitoring system is operating and collecting data and when it is not collecting data;

(F) Accuracy audit procedures for analytical methods; and

(G) Program of corrective action for a malfunctioning continuous automated sampling system.

(ii) Your performance evaluation test plan must include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance program. Data quality objectives are the pre-evaluation expectations of precision,

accuracy, and completeness of data. The internal quality assurance program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous automated sampling system performance, for example, plans for relative accuracy testing using the appropriate reference method in paragraph (g)(3) of this section, and an assessment of quality of analysis results. The external quality assurance program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) You must conduct a performance evaluation of each continuous automated sampling system in accordance with the site-specific monitoring plan.

(7) You must operate and maintain the continuous automated sampling system in continuous operation according to the site-specific monitoring plan.

Other Monitoring Requirements

§ 60.5990 Must I meet other requirements for continuous monitoring?

You must also monitor all the following three operating parameters:

(a) Load level of each municipal waste combustor.

(b) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§ 60.5995 How do I monitor the load of my municipal waste combustor?

(a) If your municipal waste combustor generates steam, you must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet all the following five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) flow in kilograms (or pounds) per hour.

(2) Calculate your steam (or feed water) flow in 4-hour block arithmetic averages.

(3) Calculate the steam (or feed water) flow rate using the method in "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1—1964 (R1991)," section 4 (incorporated by reference, see § 60.17).

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in "American Society

of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, part II of Fluid Meters," 6th Edition (1971), chapter 4 (incorporated by reference, see § 60.17).

(5) Before each dioxins/furans performance stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

(b) Determine the maximum demonstrated municipal waste combustor load during the initial performance test for dioxins/furans and each subsequent performance test specified in § 60.5970 during which you achieve compliance with the dioxins/furans emission limit in Table 2 to Subpart VVVV. The maximum demonstrated municipal waste combustor load is the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.5980, you may apply the same maximum municipal waste combustor load from the tested facility for all the similarly designed and operated municipal waste combustors.

§ 60.6000 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

(a) You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

(b) Calculate the temperature of the flue gas stream in 4-hour block arithmetic averages.

(c) Determine the maximum demonstrated particulate matter control device temperature for each particulate matter control device during the initial performance test for dioxins/furans and each subsequent performance test specified in § 60.5970 during which you achieve compliance with the dioxins/furans emission limit. The maximum demonstrated particulate matter control device temperature is the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecutive hours during the most recent test. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.5980, you may apply the same maximum particulate matter control device temperature from the tested

facility for all the similarly designed and operated municipal waste combustors.

§ 60.6005 How do I monitor the injection rate of activated carbon?

If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(a) Select a carbon injection system operating parameter(s) that can be used to calculate carbon feed rate (for example, screw feeder speed, hopper volume, or hopper refill frequency).

(b) During the initial and each subsequent dioxins/furans and mercury performance stack test specified in § 60.5970, estimate an average carbon feed rate in kilograms (or pounds) per hour. You must determine an average operating parameter level that correlates to the carbon feed rate and establish a relationship between the operating parameter(s) and the carbon feed rate in order to estimate the average carbon feed rate. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.5980, you may apply the same estimated average carbon mass feed rate from the tested facility for all the similarly designed and operated municipal waste combustors.

(c) Continuously monitor the selected carbon injection operating parameter(s) (as specified in paragraph (b) of this section) during all periods when the municipal waste combustor is operating and combusting waste, and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. The 8-hour block average must equal or exceed the level(s) documented during the performance tests specified under paragraph (b) of this section, except that during the annual dioxins/furans or mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the limit for average mass carbon feed rate may be waived following permission of the Administrator if the tests are for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

(d) You must estimate the total carbon usage of the facility (kilograms or pounds) for each calendar quarter using two independent methods:

(1) The weight of carbon delivered to the facility.

(2) Estimate the average carbon mass feed rate in kilograms per hour or

pounds per hour for each hour of operation for each municipal waste combustor, based on the selected carbon injection operating parameter(s) specified in paragraph (b) of this section, and as specified in equation 2 to § 60.6140.

(e) Use pneumatic injection pressure or another carbon injection system operational indicator for additional verification of proper carbon injection system operation. The operational indicator must provide an instantaneous visual and/or audible alarm to alert the operator of a potential interruption in the carbon feed that would not normally be indicated by direct monitoring of carbon mass feed rate (e.g., continuous weight loss feeder) or monitoring of the carbon system operating parameter(s) that are the indicator(s) of carbon mass feed rate (e.g., screw feeder speed). The carbon injection system operational indicator used to provide additional verification of carbon injection system operation, including basis for selecting the indicator and operator response to the indicator alarm, shall be included in the site-specific operating manual required under § 60.5855 of this subpart.

§ 60.6010 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for all the following three parameters:

(1) Load level of the municipal waste combustor.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour arithmetic averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter.

§ 60.6015 What requirements must I meet for estimating my municipal waste combustor capacity?

(a) You must calculate the capacity for each continuous municipal waste combustor (e.g., capable of combusting continuously for a 24-hour period) based on 24 hours of operation at the maximum charging rate. You must determine the maximum charging rate differently for combustors that are designed based on heat capacity and for combustors that are not designed based on heat capacity.

(1) For combustors that are designed based on heat capacity, calculate the maximum charging rate based on the maximum design heat input capacity of the unit and a heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel, or a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

(2) For combustors that are not designed based on heat capacity, the maximum charging rate is the maximum design charging rate.

(b) You must calculate the capacity for each batch feed municipal waste combustor based on the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period.

(1) You must calculate the maximum number of batches that could be processed in a 24-hour period by dividing 24 hours by the design number of hours required to process one batch of municipal solid waste. The maximum number of batches may include a fraction (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period).

(2) For batch combustors that are designed based on heat capacity, calculate the municipal waste combustor capacity in megagrams per day, based on the design heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel or a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

Recordkeeping

§ 60.6020 What records must I keep?

You must keep all the following five types of records:

(a) Notification of construction, materials separation plan, and siting analysis.

(b) Operator training and certification.

(c) Stack tests.

(d) Continuously monitored pollutants and parameters.

(e) Carbon feed rate.

§ 60.6025 Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the Administrator approves another format. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a

delegated air agency or the EPA as part of an on-site compliance evaluation.

(b) Keep all records on each municipal waste combustor for at least 5 years.

(c) Make all records available for submittal to the Administrator, or for onsite review by an inspector.

§ 60.6030 What records must I keep for the materials separation plan and siting analysis?

You must keep records of all the following five items:

(a) The date of each record.

(b) The final materials separation plan.

(c) The final siting analysis.

(d) A record of the location and date of the public meetings.

(e) Your responses to the public comments received during the public comment periods for the materials separation plan and siting analysis.

§ 60.6035 What records must I keep for operator training and certification?

You must keep records of all the following six items:

(a) *Records of provisional certifications.* Include three items:

(1) Names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(2) Dates of the initial and renewal provisional certifications.

(3) Documentation showing current provisional certifications.

(b) *Records of full certifications.*

Include three items:

(1) Names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(2) Dates of initial and renewal full certifications.

(3) Documentation showing current full certifications.

(c) *Records showing completion of the operator training course.* Include three items:

(1) Names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or state municipal waste combustion operator training course.

(2) Dates of completion of the operator training course.

(3) Documentation showing completion of the operator training course.

(d) *Records of reviews for site-specific operating manuals.* Include all the following three items:

(1) Names of persons who have reviewed the operating manual.

(2) Date of the initial review.

(3) Dates of subsequent annual reviews.

(e) *Records of when a certified operator is temporarily offsite.* Include two main items:

(1) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(2) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks and no other certified operator is onsite, keep records of all the following four items:

(i) Time of day that all certified persons are offsite.

(ii) The conditions that cause those people to be offsite.

(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite as soon as practicable.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite as soon as practicable.

(f) *Records of calendar dates.* Include the calendar date on each record.

§ 60.6040 What records must I keep for stack tests?

For stack tests required under § 60.5960, you must keep records of all the following four items:

(a) The results of the initial and annual performance stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in Table 2 to Subpart VVVV:

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) Test reports including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of your municipal waste combustor and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

§ 60.6045 What records must I keep for continuously monitored pollutants or parameters?

You must keep records of all the following eight items:

(a) *Records of monitoring data.*

Document all the following eight parameters measured using continuous monitoring systems:

(1) All 6-minute average levels of opacity.

(2) All 1-hour average concentrations of sulfur dioxide emissions.

(3) All 1-hour average concentrations of nitrogen oxides emissions.

(4) All 1-hour average concentrations of carbon monoxide emissions.

(5) All 1-hour average load levels of your municipal waste combustor.

(6) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(7) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 1-hour average concentrations of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(8) If you monitor emissions with a CEMS, you must indicate which data are CEMS data during warmup, startup, and shutdown.

(b) *Records of average concentrations.* Document seven parameters:

(1) All 24-hour daily block geometric average concentrations and percent reductions of sulfur dioxide emissions.

(2) All 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(3) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions, as applicable.

(4) All 4-hour block arithmetic average load levels of your municipal waste combustor.

(5) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 24-hour daily arithmetic average concentrations and percent reductions, as appropriate, of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(7) If you elect to use a continuous automated sampling system to monitor mercury or dioxins/furans instead of conducting performance testing, all integrated 24-hour mercury concentrations (or percent reductions)

or all integrated 2-week dioxins/furans concentrations.

(c) *Records of exceedances.* Document all the following three items:

(1) Calendar dates whenever any of the seven pollutant or parameter levels recorded in paragraph (b) of this section or the opacity level recorded in paragraph (a)(1) of this section did not meet the emission limits or operating levels specified in this subpart.

(2) Reasons you exceeded the applicable emission limits or operating levels.

(3) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(d) *Records of minimum data.*

Document three items:

(1) Calendar dates for which you did not collect the minimum amount of data required under §§ 60.5935 and 60.6010. Record the dates for the following types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) Nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of your municipal waste combustor.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(vi) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance tests, the particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(vii) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, dates and times when the sampling systems were not operating or were not collecting a valid sample.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took, or are taking, to obtain the required amount of data.

(e) *Records of exclusions.* Document each time you have excluded data from your calculation of averages for any of the following pollutants or parameters and the reasons the data were excluded:

(1) Sulfur dioxide emissions.

(2) Nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load levels of your municipal waste combustor.

(5) Temperatures of the flue gases at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, or who elect to use continuous automated sampling systems for dioxins/furans or mercury emissions, instead of conducting performance tests:

(i) Particulate matter emissions data.

(ii) Cadmium emissions data.

(iii) Lead emissions data.

(iv) Mercury emissions data.

(v) Hydrogen chloride emissions data.

(vi) Dioxins/furans emissions data.

(f) *Records of drift and accuracy.*

Document the results of your daily drift tests and quarterly accuracy determinations according to the following:

(1) For sulfur dioxides, nitrogen oxides, and carbon monoxides, according to Procedure 1 of appendix F of this part. Keep the records for the sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emissions monitoring systems.

(2) If you elect to continuously monitor particulate matter instead of conducting performance testing, according to Procedure 2, appendix F of this part. Keep the records for the particulate matter continuous emissions monitoring systems.

(3) If you elect to continuously monitor cadmium, lead, mercury, or hydrogen chloride instead of conducting performance testing, maintain the results of all quality evaluations, including daily drift tests and periodic accuracy determinations, specified in the approved site-specific performance evaluation test plan or as specified in Procedures 5 and 6 of appendix F of this part, as applicable.

(4) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the results of all quality evaluations specified in the approved site-specific performance evaluation test plan or Procedure 5 of appendix F of this part, as applicable.

(g) *Records of the relationship between oxygen and carbon dioxide.* If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in § 60.5930.

(h) *Records of calendar dates.* Include the calendar date on each record.

(i) *Time system.* All continuous monitoring systems data must be recorded using "local time" for the location where the municipal waste combustor is located, unless the Administrator approves an alternative time system.

(j) *Additional recordkeeping for continuous cadmium, lead, mercury, or hydrogen chloride monitoring systems.* In addition to the requirements of paragraphs (a) through (i) of this section, if you elect to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, you must maintain the following additional records:

(1) All required continuous emission monitoring measurements (including monitoring data recorded during unavoidable continuous emission monitoring system breakdowns and out-of-control periods).

(2) The date and time identifying each period during which the continuous emission monitoring system was inoperative except for zero (low-level) and high-level checks.

(3) The date and time identifying each period during which the continuous emission monitoring system was out of control, as defined in § 60.5985.

(4) The date and time of commencement and completion of each period of excess emissions and parameter monitoring exceedances that occurs during warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(5) The date and time of commencement and completion of each time period of excess emissions and parameter monitoring exceedances, that occurs during periods other than warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(6) The nature and cause of any malfunction (if known).

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions.

(8) The nature of the repairs or adjustments to the continuous emission monitoring system that was inoperative or out of control.

(9) All procedures that are part of a quality control program developed and implemented for the continuous emission monitoring system.

(10) When more than one continuous emission monitoring system is used to measure the emissions from one municipal waste combustor (e.g., multiple breechings, multiple outlets), record the results as required for each continuous emission monitoring system.

(k) *Additional recordkeeping for continuous automated sampling systems.* If you elect to install a continuous automated sampling system for dioxins/furans or mercury, you must maintain the following additional records:

(1) All required 24-hour integrated mercury concentration (or percent reduction) or 2-week integrated dioxins/furans concentration data (including any data obtained during unavoidable system breakdowns and out-of-control periods).

(2) The date and time identifying each period during which the continuous automated sampling system was inoperative.

(3) The date and time identifying each period during which the continuous automated sampling system was out of control.

(4) The date and time of commencement and completion of each period of excess emissions and parameter monitoring exceedances that occurs during warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(5) The date and time of commencement and completion of each time period of excess emissions and parameter monitoring exceedances that occurs during periods other than warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(6) The nature and cause of any malfunction (if known).

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions.

(8) The nature of the repairs or adjustments to the continuous automated sampling system that was inoperative or out of control.

(9) All procedures that are part of a quality control program developed and implemented for the continuous automated sampling system.

(10) When more than one continuous automated sampling system is used to measure the emissions from one municipal waste combustor (e.g., multiple breechings, multiple outlets), record the results as required for each system.

§ 60.6050 What records must I keep for municipal waste combustors that use activated carbon?

For municipal waste combustors that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of all the following five items:

(a) *Records of average carbon feed rate.* Document five items:

(1) Average carbon feed rate in kilograms (or pounds) per hour during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(2) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(3) Average carbon feed rate in kilograms (or pounds) per hour estimated for each hour of operation. Include supporting calculations in the records.

(4) Total carbon usage for each calendar quarter as estimated in § 60.6005(d). Include supporting calculations in the records.

(5) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).

(b) *Records of low carbon feed rates.* Document three items:

(1) The calendar dates when the average carbon feed rate was less than the average hourly carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions.

(2) Reasons for the low carbon feed rates.

(3) Corrective actions you took, or are taking, to meet the average carbon feed rate requirement.

(c) *Records of carbon injection system operating parameter indicators.* Document three items:

(1) Calendar dates for which the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) recorded are below the level(s) estimated during the performance tests.

(2) Reasons for the occurrences.

(3) Corrective actions you took or are taking to meet the levels estimated during the performance tests.

(d) *Records of exclusions.* Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(e) *Records of calendar dates.* Include the calendar date on each record.

Reporting

§ 60.6055 What reports must I submit before I submit my notice of construction?

You must submit all the following five items on or before the date that the application for a construction permit is submitted under 40 CFR part 51, subpart I, or 40 CFR part 52, as applicable:

(a) Your preliminary draft materials separation plan, as specified in § 60.5745.

(b) Your revised materials separation plan, as specified in § 60.5765(c).

(c) Your notice of the initial public meeting for your draft materials separation plan, as specified in § 60.5750(b).

(d) A transcript of the initial public meeting, as specified in § 60.5760(f).

(e) A copy of the document that summarizes your responses to the public comments you received during the initial public comment period, as specified in § 60.5765(a).

§ 60.6060 What must I include in my notice of construction?

(a) Include all the following ten items:
(1) A statement of your intent to construct the municipal waste combustor.

(2) The planned initial startup date of your municipal waste combustor.

(3) The types of fuels you plan to combust in your municipal waste combustor.

(4) The capacity of your municipal waste combustor including supporting capacity calculations, as specified in § 60.6015.

(5) Your siting analysis, as specified in § 60.5805.

(6) Your final materials separation plan, as specified in § 60.5785.

(7) Your notice of the second public meeting (siting analysis meeting), as specified in § 60.5810(b).

(8) A transcript of the second public meeting, as specified in § 60.5820(d).

(9) A copy of the document that summarizes your responses to the public comments you received during the second public comment period, as specified in § 60.5825(a).

(10) Your final siting analysis, as specified in § 60.5825(c).

(b) Submit your notice of construction no later than 30 days after you commence construction, reconstruction, or modification of your municipal waste combustor.

§ 60.6065 What reports must I submit after I submit my notice of construction and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this subpart.

(b) Within 60 days after the date of completing each performance test or continuous emissions monitoring systems (CEMS) performance evaluation that includes a relative accuracy test audit (RATA), you must submit the results following the procedures specified in paragraph (d) of this section. Data collected using test methods and performance evaluations of CEMS measuring RATA pollutants that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test or performance evaluation must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test

methods and performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test or performance evaluation must be included as an attachment in the ERT or an alternate electronic file.

(c) For the semiannual and annual reports specified under paragraph (a) of this section, beginning on March 10, 2027 or once the report template for this subpart has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for one year, whichever date is later, submit all subsequent reports using the appropriate electronic report template on the CEDRI website for this subpart and following the procedure specified in paragraph (d) of this section. The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(d) If you are required to submit notifications or reports following the procedure specified in this paragraph (d), you must submit notifications or reports to the EPA via the CEDRI website, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (d)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions

data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (d).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqps_cbi@epa.gov, and as described above, should include clear CBI markings. ERT files should be flagged to the attention of the Branch Manager, Measurement Strategies Branch; all other files should be flagged to the attention of the Large Municipal Waste Combustor Sector Lead. 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 oaqps_cbi@epa.gov to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Branch Manager, Measurement Strategies Branch, and all other files should be sent to the attention of the Large Municipal Waste Combustor Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (e)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should

have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(f) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (f)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.*, hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.*, large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

(g) Keep a copy of all reports required by §§ 60.6080, 60.6090, and 60.6105 onsite for 5 years.

(h) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride or to use continuous automated sampling systems for dioxins/furans or mercury emissions instead of conducting performance tests, you must notify the Administrator one month prior to starting or stopping use of the particulate matter, cadmium, lead, mercury, hydrogen chloride, and dioxins/furans continuous emission monitoring systems or continuous automated sampling systems.

(i) If you elect to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, or you elect to install a continuous automated sampling system for dioxins/furans or mercury, you must also submit to EPA for approval, the site-specific monitoring plan, including the site-specific performance evaluation test plan for the continuous emission monitoring system or the continuous automated sampling system. You must maintain copies of the site-specific monitoring plan on record for the life of the municipal waste combustor to be made available for inspection, upon request, by the Administrator. If the site-specific monitoring plan is revised and approved, you must maintain the previous (*i.e.*, superseded) versions of the plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

§ 60.6070 What are the appropriate units of measurement for reporting my data?

See Tables 1 and 2 to Subpart VVVV for appropriate units of measurement.

§ 60.6075 When must I submit the initial performance test report?

As specified in § 60.8(a), submit your initial performance test report within 60

days after your municipal waste combustor reaches the maximum load level at which it will operate, but no later than 180 days after its initial startup.

§ 60.6080 What must I include in my initial performance test report?

You must include seven items:

(a) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following pollutants or parameters as recorded in accordance with § 60.6045(b).

(1) The 24-hour daily block geometric average concentration or percent reduction of sulfur dioxide emissions.

(2) The 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(3) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions, as applicable.

(4) The 4-hour block arithmetic average load level of your municipal waste combustor.

(5) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 1-hour average concentrations of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(7) If you monitor emissions with a CEMS, you must indicate which data are CEMS data during warmup, startup, and shutdown.

(b) The results of the initial performance stack tests for eight pollutants or parameters (use appropriate units as specified in Table 2 to Subpart VVVV):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(c) The test report that documents the initial stack tests including supporting calculations.

(d) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in appendix B of this part in conducting the evaluation.

(e) The maximum demonstrated load of your municipal waste combustor and the maximum demonstrated temperature of the flue gases at the inlet

of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(f) If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, the average carbon mass feed rates that you recorded during the stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in § 60.6050(a)(1) and (2).

(g) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 60.5930.

§ 60.6085 When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. If you have an operating permit for any unit under title V of the Clean Air Act (CAA), you must submit semiannual reports. Parts 70 and 71 of this chapter contain program requirements for permits.

§ 60.6090 What must I include in my annual report?

Summarize data collected for all pollutants and parameters regulated under this subpart. Your summary must include twelve items:

(a) A list of the results achieved during the annual stack test, using appropriate units, for eight pollutants, as recorded under § 60.6040(a):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Particulate matter.

(6) Opacity.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) List of the highest average levels recorded, in the appropriate units for the following pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) Nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or dioxins/furans emissions instead of conducting performance testing:

(i) Particulate matter emissions.

(ii) Cadmium emissions.

(iii) Lead emissions.

- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(c) For continuously monitored pollutants identified in paragraphs (b)(1) through (3) and (b)(6) of this section, a list of the block averages recorded during all operations for the reporting year, identifying measurements recorded during periods of warmup, startup, and shutdown as defined in this subpart.

(d) The highest 6-minute opacity level measured. Base the value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§ 60.6045(a)(1)).

(e) The total number of hours per calendar quarter and hours per calendar year that you did not obtain valid data for the following pollutants or parameters. For each continuously monitored pollutant or parameter, the hours of valid emissions data per calendar quarter and per calendar year expressed as a percent of the hours per calendar quarter or year that the municipal waste combustor was operating and combusting municipal solid waste. Include data on:

- (1) Sulfur dioxide emissions.
- (2) Nitrogen oxides emissions.
- (3) Carbon monoxide emissions.
- (4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or dioxins/furans emissions instead of conducting performance testing:

- (i) Particulate matter emissions.
- (ii) Cadmium emissions.
- (iii) Lead emissions.
- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(7) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the total number of hours per calendar quarter and hours per calendar year that the sampling systems were not operating or were not collecting a valid sample. Include the number of hours during which the continuous automated sampling system was operating and collecting a valid sample as a percent of hours per calendar quarter or year that the municipal waste combustor was operating and combusting municipal solid waste.

(f) The total number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for the following pollutants or parameters:

- (1) Sulfur dioxide emissions.
- (2) Nitrogen oxides emissions.
- (3) Carbon monoxide emissions.
- (4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or dioxins/furans emissions instead of conducting performance testing:

- (i) Particulate matter emissions.
- (ii) Cadmium emissions.
- (iii) Lead emissions.
- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(7) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the total number of hours that the data for mercury and dioxins/furans were excluded from the calculation of average emission concentrations or parameters.

(g) A summary of the data in paragraphs (a) through (f), excluding (c), of this section from the year preceding the reporting year which gives the Administrator a summary of the performance of the municipal waste combustor over a 2-year period.

(h) A summary of any emission or parameter level, including the information specified in paragraphs (a) through (g) of this section, that did not meet the limits specified in this subpart.

(i) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year, if you are eligible for alternative scheduling (§ 60.5980(a) or (b)).

(j) A notice of your intent to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels to similarly designed and equipped units on site. (§ 60.5980(c)).

(k) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 60.5930.

(l) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§ 60.6095 What must I do if I am out of compliance with the requirements of this subpart?

You must submit a semiannual report on any recorded emission or parameter level that does not meet the requirements specified in this subpart.

§ 60.6100 If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§ 60.6105 What must I include in the semiannual out-of-compliance reports?

You must include all of the following items in the semiannual report:

(a) For any of the pollutants or parameters listed in paragraphs (a)(1)–(8) of this section that exceeded the limits specified in this subpart, include the calendar date they exceeded the limits, the reasons for exceeding the limits, and your corrective actions. You must also include the averaged and recorded data for that date:

- (1) Concentration of sulfur dioxide emissions.
- (2) Concentration of nitrogen oxides emissions.
- (3) Concentration of carbon monoxide emissions.
- (4) Load level of your municipal waste combustor.
- (5) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.

(6) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

(7) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing:

- (i) Concentration of particulate matter emissions.
- (ii) Concentration of cadmium emissions.
- (iii) Concentration of lead emissions.
- (iv) Concentration of mercury emissions.
- (v) Concentration of hydrogen chloride emissions.

(8) If you elect to use a continuous automated sampling system to monitor mercury or dioxins/furans instead of conducting performance testing, the integrated 24-hour mercury concentrations (or percent reductions) or the integrated 2-week dioxins/furans concentration.

(b) If the results of your annual stack tests (as recorded in § 60.6040(a)) show emissions above the limits specified in Table 2 to Subpart VVVV for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a

copy of the test report that documents the emission levels and your corrective actions. The semiannual report shall contain a statement indicating that pollutant levels were exceeded during the performance test and list which pollutant limits were exceeded and a copy of the performance test is no longer required.

(c) For municipal waste combustors that apply activated carbon to control dioxins/furans or mercury emissions, include documentation of all dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) are below the levels established during the most recent mercury and dioxins/furans stack test (as specified in § 60.6050(a)). Include four items:

(1) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation.

(2) Reasons for occurrences of low carbon feed rates.

(3) The corrective actions you have taken to meet the carbon feed rate requirement.

(4) The calendar date.

(d) If you elect to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, or you elect to install a continuous automated sampling system for dioxins/furans or mercury, submit information concerning all out-of-control periods for each continuous emission monitoring system or each continuous automated sampling system, including start and end dates and hours and descriptions of corrective actions taken.

§ 60.6110 Can reporting dates be changed?

(a) If the Administrator agrees, you may change the semiannual or annual reporting dates.

(b) See § 60.19(c) for procedures to seek approval to change your reporting date.

Air Curtain Incinerators That Burn 100 Percent Wood Waste, Clean Lumber, and/or Yard Waste

§ 60.6115 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air

across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

§ 60.6120 What is yard waste?

Yard waste is grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(a) Construction, renovation, and demolition wastes that are exempt from the definition of “municipal solid waste” in § 60.6145.

(b) Clean wood that is exempt from the definition of “municipal solid waste” in § 60.6145.

§ 60.6125 What are the emission limits for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

If your air curtain incinerator with a capacity to combust greater than 250 tons per day of municipal solid waste combusts a fuel feed stream of 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste, and no other municipal solid waste materials, you must meet only the emission limits in this section.

(a) Within 60 days after your air curtain incinerator reaches the maximum load level at which it will operate, but no later than 180 days after its initial startup, you must meet two limits:

(1) The opacity limit is 10 percent (6-minute average) except as provided in paragraph (a)(2) of this section.

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

§ 60.6130 How must I monitor opacity for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

(a) Use the procedures specified in to Subpart VVVV to determine compliance with the opacity limit for air curtain incinerators under § 60.6125.

(b) Conduct an initial test for opacity as specified in § 60.8 of subpart A of this part.

(c) After the initial test for opacity, conduct annual tests (no less than 9 calendar months and no more than 15 calendar months following the previous test). You must complete five performance tests in each 5-year calendar period.

§ 60.6135 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

(a) Provide a notice of construction that includes four items:

(1) Your intent to construct the air curtain incinerator.

(2) Your planned initial startup date.

(3) Types of fuels you plan to combust in your air curtain incinerator.

(4) The capacity of your incinerator, including supporting capacity calculations, as specified in § 60.6015.

(b) Keep records of results of the initial opacity performance test and all subsequent opacity performance tests onsite in either paper copy or electronic format unless the Administrator approves another format.

(c) Keep all records for each incinerator for at least 5 years.

(d) Make all records available for submittal to the Administrator or for onsite review by an inspector.

(e) Submit the results (each 6-minute average) of the initial opacity performance test and all subsequent annual opacity performance tests by February 1 of the year following the year of the opacity emission test.

(f) Submit reports in either paper copy or electronic format on or before the applicable submittal date.

(g) If the Administrator agrees, you may change the annual reporting dates (see § 60.19(c)).

(h) Keep a copy of all reports onsite for a period of 5 years.

Equations

§ 60.6140 What equations must I use?

(a) *Concentration correction to 7 percent oxygen.* Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

Equation 1 to Paragraph (a)

$$C_{7\%} = C_{unc} * (13.9 / (20.9 - CO_2)) \quad (\text{Eq.1})$$

Where:

$C_{7\%}$ = concentration corrected to 7 percent oxygen.

C_{unc} = uncorrected pollutant concentration.

CO_2 = concentration of oxygen (percent).

(b) *Quarterly carbon usage.* If you use activated carbon to comply with the

dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 2 of this section

for facility basis or equation 3 of this section for unit basis:

(1) Facility basis.

Equation 2 to Paragraph (b)(1)

$$C = \sum_{i=1}^n f_i * h_i \text{ (Eq. 2)}$$

Where:

C = required quarterly carbon usage for the facility in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustor in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustor was in operation during the calendar quarter (hours).

n = number of municipal waste combustors, i, located at your plant.

(2) Unit basis.

Equation 3 to Paragraph (b)(2)

$$C = f * h \text{ (Eq. 3)}$$

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).

f = required carbon feed rate for the municipal waste combustor in kilograms (or pounds) per hour. That is the average

carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h = number of hours the municipal waste combustor was in operation during the calendar quarter (hours).

(c) *Percent Reduction*. If you opt to comply with the alternative percent reduction standards for hydrogen chloride, mercury or sulfur dioxide, use the following equation to calculate the percent reduction:

Equation 4 to Paragraph (c)

$$\%P_{(HCl, Hg, SO_2)} = (E_i - E_o) / E_i * 100 \text{ (Eq. 4)}$$

Where:

$\%P_{(HCl, Hg, SO_2)}$ = percent reduction of pollutant being measured, either hydrogen chloride, mercury or sulfur dioxide.

E_i = emission concentration of measured pollutant at inlet to the applicable control device, corrected to 7 percent oxygen (dry basis).

E_o = emission concentration of measured pollutant at the outlet of the applicable control device, corrected to 7 percent oxygen (dry basis).

Definitions

§ 60.6145 What definitions apply to this subpart?

Terms used but not defined in this section are defined in the CAA and in subparts A and B of this part.

Administrator means:

(1) For approved and effective state plans, the Director of the state air pollution control agency, or employee of the state air pollution control agency that is delegated the authority to perform the specified task;

(2) For federal plans, the Administrator of the EPA, an employee of the EPA, the Director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task; and

(3) For NSPS, the Administrator of the EPA, an employee of the EPA, the Director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of that type can be constructed above or below ground and

with or without refractory walls and floor.

Batch municipal waste combustor means a municipal waste combustor designed so it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

Bubbling fluidized bed combustor means a fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

Calendar quarter means a consecutive 3-month period (nonoverlapping) beginning on January 1, April 1, July 1, and October 1.

Calendar year means the period including 365 days starting January 1 and ending on December 31.

CEMS means continuous emissions monitoring system.

CEMS data during warmup, startup, and shutdown means CEMS data collected during periods of operation defined within this subpart as warmup, startup or shutdown.

Chief facility operator means the person in direct charge and control of the operation of a municipal waste combustor and who is responsible for daily onsite supervision, technical direction, management, and overall performance of the facility.

Circulating fluidized bed combustor means a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

Clean wood means untreated wood or untreated wood products including clean or untreated lumber (as defined in this subpart), tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere

in this section, wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or construction, renovation, and demolition wastes (including but not limited to railroad ties and telephone poles), which are exempt from the definition of municipal solid waste in this section.

Cofired combustor means a unit combusting municipal solid waste with nonmunicipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit limiting the unit to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste as measured on a calendar quarter basis.

Continuous automated sampling system means the total equipment and procedures for automated sample collection and sample recovery/analysis to determine a pollutant concentration or emission rate by collecting a single or multiple integrated sample(s) of the pollutant (or diluent gas) for subsequent on- or off-site analysis; integrated sample(s) collected are representative of the emissions for the sample time as specified by the applicable requirement.

Continuous emission monitoring system means a monitoring system that continuously measures the emissions of a pollutant from an affected facility.

Digital camera opacity technique conditions mean the following four conditions that must be followed if ASTM D7520-16, "Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere" is used as an alternative to EPA Method 9:

(1) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT

vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(2) You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16.

(3) You must follow the record keeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(4) You or the DCOT vendor must have a minimum of 4 independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

Dioxins/furans mean tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans. For the purposes of this subpart, dioxins/furans emission limits are expressed on a total mass basis.

EPA means the Administrator of the U.S. EPA or employee of the U.S. EPA who is delegated to perform the specified task.

Federally enforceable means all limitations and conditions that are enforceable by EPA including the requirements of 40 CFR part 60, 40 CFR part 61, and 40 CFR part 63, requirements within any applicable state implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.165 and 40 CFR 51.166.

First half of the calendar year means the period starting on January 1 and ending on June 30 in any year.

Four-hour block average or 4-hour block average means the average of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over 4-hour periods from:

- (1) 12:00 midnight to 4:00 a.m.
- (2) 4:00 a.m. to 8:00 a.m.
- (3) 8:00 a.m. to 12:00 noon.
- (4) 12:00 noon to 4:00 p.m.
- (5) 4:00 p.m. to 8:00 p.m.
- (6) 8:00 p.m. to 12:00 midnight.

Mass burn refractory municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes combustors with a cylindrical rotary refractory wall furnace.

Mass burn rotary waterwall municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a cylindrical rotary waterwall furnace or on a tumbling-tile grate.

Mass burn waterwall municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a waterwall furnace.

Materials separation plan means a plan that identifies both a goal and an approach for separating certain components of municipal solid waste for a given service area in order to make the separated materials available for recycling. A materials separation plan may include elements such as dropoff facilities, buy-back or deposit-return incentives, curbside pickup programs, or centralized mechanical separation systems. A materials separation plan may include different goals or approaches for different subareas in the service area, and may include no materials separation activities for certain subareas or, if warranted, an entire service area.

Maximum demonstrated municipal waste combustor load means the highest 4-hour arithmetic average municipal waste combustor load achieved during four consecutive hours during the most recent dioxins/furans performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under § 60.52b.

Maximum demonstrated particulate matter control device temperature means the highest 4-hour arithmetic average flue gas temperature measured at the particulate matter control device inlet during four consecutive hours during the most recent dioxins/furans performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under § 60.52b.

Modification or modified municipal waste combustor means a municipal waste combustor you have changed after September 10, 2026 and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of construction and installation the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs.

(2) Any physical change in the municipal waste combustor or change in the method of operating the municipal waste combustor that increases the amount of any air pollutant emitted by the unit for which standards have been established under section 129 or section

111 of the CAA. Increases in the amount of any air pollutant emitted by the municipal waste combustor are determined when the municipal waste combustor operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be considered in the determination.

Modular excess-air municipal waste combustor means a combustor that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular starved-air municipal waste combustor means a combustor that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Municipal solid waste or municipal-type solid waste or MSW means household, commercial/retail, or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff). Household, commercial/retail, and institutional wastes include:

- (1) Yard waste;
- (2) Refuse-derived fuel; and
- (3) Motor vehicle maintenance materials limited to vehicle batteries and tires except as specified in § 60.5700(d).

Municipal waste combustor, or MWC, means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (*i.e.*, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustors:

(1) Municipal waste combustors do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under Applicability (§ 60.5700(h) and (i)). Municipal waste combustors also do not include cement kilns firing municipal solid waste as specified under Applicability (§ 60.5700(j)). Municipal waste combustors also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal waste combustor are defined as follows. The municipal waste combustor includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(i) The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber.

(ii) The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustor water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(3) The municipal waste combustor does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

Municipal waste combustor capacity means the maximum charging rate of a municipal waste combustor expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under § 60.6015. Section 60.6015 includes procedures for determining municipal waste combustor

capacity for continuous and batch feed municipal waste combustors.

Municipal waste combustor load means the steam load of the municipal waste combustor measured as specified in § 60.5995.

Particulate matter means total particulate matter emitted from municipal waste combustors as measured using EPA Reference Method 5 (see § 60.5975)

Plastics/rubber recycling unit means an integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). The feed materials are processed into a chemical plant feedstock or petroleum refinery feedstock, where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The following three criteria further define a plastics/rubber recycling unit:

(1) Each calendar quarter, the combined weight of the chemical plant feedstock and petroleum refinery feedstock that a plastics/rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that the plastics/rubber recycling unit processes.

(2) The plastics, rubber, or rubber tires fed to the plastics/rubber recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from MSW or industrial solid waste. The feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(3) The plastics, rubber, and rubber tires fed to the plastics/rubber recycling unit may contain incidental contaminants (*e.g.*, paper labels on plastic bottles, metal rings on plastic bottle caps).

Pulverized coal/refuse-derived fuel mixed fuel-fired combustor means a combustor that fires coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is fired in suspension. This includes both conventional pulverized coal and micropulverized coal.

Pyrolysis/combustion unit means a unit that produces gases, liquids, or solids by heating municipal solid waste. The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

Reconstruction means rebuilding a municipal waste combustor for which the reconstruction commenced after September 10, 2026 and the cumulative

costs of the construction over the life of the unit exceed 50 percent of the original cost of construction and installation of the unit (not including any cost of land purchased in connection with such construction or installation) updated to current costs (current dollars).

Refractory unit or refractory wall furnace means a combustion unit that has no energy recovery (*e.g.*, via a waterwall) in the furnace (*i.e.*, radiant heat transfer section) of the combustor.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Refuse-derived fuel stoker means a steam generating unit that combusts refuse-derived fuel in a semi suspension firing mode using air-fed distributors.

Same location means the same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (*e.g.*, a public utility district or regional authority for waste disposal).

Second half of the calendar year means the period that starting July 1 and ending on December 31 in any year.

Shift supervisor means the person who is in direct charge and control of operating a municipal waste combustor and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustor during an assigned shift.

Shutdown means the period of time following cessation of charging waste to the combustion grate prior to entering a period where the municipal waste combustor is not operating. Shutdown may be claimed for up to three hours of operation per occurrence.

Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor means a combustor that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above.

Combustion takes place both in suspension and on the grate.

Standard conditions means a temperature of 20 °C and a pressure of 101.3 kilopascals.

Startup means the period of time after warmup when waste is introduced to the combustion grate but prior to steady state operation. Startup may be claimed for up to three hours of operation per occurrence.

Total mass dioxins/furans or total mass means the total mass of tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans as determined using EPA Reference Method 23 and the procedures specified in § 60.5975

Tumbling-tile means a grate tile hinged at one end and attached to a ram at the other end. When the ram extends, the grate tile rotates around the hinged end.

Twenty-four hour daily average or 24-hour daily average means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the affected facility operates and combusts municipal solid waste measured over a 24-hour period between 12:00 midnight and the following midnight.

Untreated lumber or clean lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or “pressure-treated”. Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

Warmup means the period of time during the first hours of a municipal waste combustor operation from a cold

start until waste is fed to the combustor and has no time constraints. No waste is introduced to the combustion grate during warmup.

Waterwall furnace means a combustion unit having energy (heat) recovery in the furnace (*i.e.*, radiant heat transfer section) of the combustor.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of “municipal solid waste” in this section.

(2) Clean wood that is exempt from the definition of “municipal solid waste” in this section.

TABLE 1 TO SUBPART VVVV—LARGE MUNICIPAL WASTE COMBUSTOR CARBON MONOXIDE LIMITS

[Parts per million by volume]

Municipal waste combustor technology	New large municipal waste combustors	
	Carbon monoxide emission limit (parts per million by volume) ^a	Averaging time (hours) ^b
Mass burn waterwall	76	4
Mass burn refractory	76	4
Mass burn rotary waterwall	76	24
Modular starved air	50	4
Modular excess air	50	4
Refuse-derived fuel stoker	100	24
Bubbling fluidized bed combustor	100	4
Circulating fluidized bed combustor	100	4
Pulverized coal/refuse-derived fuel mixed fuel-fired combustor	100	4
Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor	100	24

^a Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen (dry basis). CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are used as measured. The averaging times are specified in greater detail in § 60.5940(b).

^b Averaging times are 4-hour or 24-hour block arithmetic averages.

TABLE 2 TO SUBPART VVVV—EMISSION LIMITATIONS FOR NEW LARGE MUNICIPAL WASTE COMBUSTORS

For the air pollutant	If your affected facility is a new large municipal waste combustor, you must meet this emission limit, corrected to 7 percent oxygen ^a
Particulate matter	5.1 mg/dscm.
Opacity	10 percent opacity (6-minute block average).
Cadmium	2.3 ug/dscm.
Lead	23 ug/dscm.
Mercury	32 ug/dscm or 85 percent reduction by weight.
Sulfur dioxide	14 parts per million by volume dry basis or 79 percent reduction by weight or volume (daily 24-hour geometric average).
Hydrogen chloride	7.2 parts per million by volume dry basis or 98 percent reduction by weight or volume.
Dioxins/furans	11 nanograms per dry standard cubic meter (total mass).
Nitrogen oxides	50 parts per million by volume dry basis (daily 24-hour arithmetic average).

^a Measured at the combustor outlet in conjunction with a measurement of oxygen concentration. CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are used as measured. The averaging times are specified in greater detail in § 60.5940.

TABLE 3 TO SUBPART VVVV OF PART 60—REQUIREMENTS FOR CONTINUOUS EMISSION MONITORING SYSTEMS (CEMS)

For the following pollutants	Use the following span values for your CEMS	Use the following performance specifications for your CEMS	During each relative accuracy test run, use the following methods to collect concurrent data
1. Particulate Matter		For operation and correlation test, P.S. 11 in appendix B of this part and procedure 2 of appendix F to this part. For quarterly accuracy determinations, daily calibration drift tests, and each response correlation audit or relative response audit, procedure 2 of appendix F to this part.	Follow the test methods in Table 4 to Subpart VVVV.
2. Nitrogen Oxides	Control device outlet: 125 percent of the maximum estimated hourly nitrogen oxides emissions of the municipal waste combustor.	For operation, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For relative accuracy, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 7, 7A, 7C, 7D, or 7E in appendix A–4 to part 60 of this chapter.
3. Sulfur Dioxide	Control device outlet: 50 percent of the maximum estimated hourly sulfur dioxide emissions of the municipal waste combustor.	For operation, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For relative accuracy audit, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 6, 6A, or 6C in appendix A–4 to part 60 of this chapter.
4. Carbon Monoxide	125 percent of the maximum estimated hourly carbon with monoxide emissions of the municipal waste combustor.	For operation, P.S. 4A in appendix B of this part and procedure 1 of appendix F of this part. For relative accuracy audit, P.S. 4A in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 10, 10A, or 10B in appendix A–4 to part 60 of this chapter.
5. Oxygen or Carbon Dioxide.	25 percent oxygen or 20 percent carbon dioxide	P.S. 3 in appendix B of this part	Method 3A, or 3B in appendix A–2 to part 60 of this chapter, or, as an alternative for oxygen or carbon dioxide correction, the manual method portion of ASME PTC–19–10–1981—part 10.
6. Mercury	Follow the approved site-specific monitoring plan	For operation, P.S. 12A in appendix B of this part and procedure 5 of appendix F of this part, or the approved site-specific monitoring plan. For relative accuracy audit, daily calibration, weekly system integrity check, quarterly audit, procedure 5 of appendix F of this part.	Follow the test methods in Table 4 to Subpart VVVV.
7. Hydrogen chloride	Follow the approved site-specific monitoring plan	For operation, P.S. 18 in appendix B of this part and procedure 6 of appendix F of this part or the approved site-specific monitoring plan. For relative accuracy audit, daily calibration, quarterly audit, and other applicable quality assurance/quality control checks procedure 6 of appendix F of this part.	Follow the test methods in Table 4 to Subpart VVVV, except you may also use Methods 320 or 321 of appendix A to part 63.
8. Cadmium or Lead	Follow the approved site-specific monitoring plan	For operation, the approved site-specific monitoring plan.	Follow the test methods in Table 4 to Subpart VVVV.

TABLE 4 TO SUBPART VVVV—PERFORMANCE TEST REQUIREMENTS FOR COMPLIANCE WITH EMISSIONS LIMITS UNDER § 60.5895

To determine compliance with the . . .	You must conduct a performance test to . . .	Using . . .
Particulate matter emission limits.	1. Select sampling ports location and the number of traverse points. 2. Determine oxygen and carbon dioxide concentrations of the stack gas. 3. Measure the particulate matter emission concentration to determine compliance with the particulate matter emission limit.	Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10. Method 5 in appendix A–3 to part 60 of this chapter. Collect a minimum sample volume of 1.7 cubic meters. The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no greater than 160°C. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 5 run.
Opacity emission limits	Determine compliance with the opacity limit in Table 2 to Subpart VVVV.	Method 9 of appendix A–4 of part 60 to this chapter, except as provided under § 60.11(e) of subpart A of this part, or as an alternative ASTM D7520–16 provided the digital camera opacity technique conditions, as defined in this subpart, are met.
Cadmium or lead emission limits.	1. Select sampling ports location and the number of traverse points. 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis.	Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10.

TABLE 4 TO SUBPART VVVV—PERFORMANCE TEST REQUIREMENTS FOR COMPLIANCE WITH EMISSIONS LIMITS UNDER § 60.5895—Continued

To determine compliance with the . . .	You must conduct a performance test to . . .	Using . . .
Mercury emission limits	3. Measure the cadmium or lead emission concentration to determine compliance with the emission limits. 1. Select sampling ports location and the number of traverse points. 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis. 3. Measure the mercury emission concentration to determine compliance with the emission limits.	Method 29 in appendix A–8 to part 60 of this chapter. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 29 test run for cadmium and lead required. Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10. Method 29 in appendix A–8 to part 60 of this chapter or as an alternative ASTM D6784–24. Collect a minimum sample volume of 1.7 cubic meters. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 29 test run for mercury required.
Sulfur dioxide emission limits	Calculate the 24-hr daily geometric average sulfur dioxide emission concentration.	Method 19, section 12.4.3, in appendix A–7 to part 60 of this chapter.
Hydrogen chloride emission limits.	Measure the hydrogen chloride emission concentration	Method 26 or 26A in appendix A–8 of part 60 to this chapter, as applicable. The minimum sampling time shall be 1 hour. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 26 or 26A test run for hydrogen chloride.
Dioxins/furans emission limits.	1. Select sampling ports location and the number of traverse points. 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis. 3. Measure the dioxins/furans emission concentration to determine compliance with the emission limits.	Method 1 in appendix A–1 to part 60 of this chapter.
Nitrogen oxides emission limits.	Determine the daily arithmetic average nitrogen oxides emission concentration.	Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10.
Fugitive ash emission limits	Measure fugitive ash emissions	Method 23 in appendix A–7 to part 60 of this chapter. The minimum sampling time shall be 4 hours. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 23 test run for dioxins/furans.
Opacity limit for air curtain incinerators under § 60.6125.	Determine compliance with the opacity limit in § 60.6125.	Method 19, section 12.4.1, in appendix A–7 to part 60 of this chapter.
		Method 22 in appendix A–7 to part 60 of this chapter. The minimum observation time shall be a series of three 1-hour observations. The observation period shall include times when the facility is transferring ash from the municipal waste combustor to the area where ash is stored or loaded into containers or trucks.
		Method 9 of appendix A–4 of part 60 to this chapter, or as an alternative ASTM D7520–16 provided the digital camera opacity technique conditions, as defined in this subpart, are met.

■ 7. Add subpart WWWW consisting of §§ 60.6250 to 60.6685 to part 60 to read as follows:

Subpart WWWW—Emission Guidelines and Compliance Times for Large Municipal Waste Combustors Constructed on or Before January 23, 2024

Sec.

Introduction

60.6250 What is the purpose of this subpart?

60.6255 Am I affected by this subpart?

60.6260 Is a state plan required for all states?

60.6265 What must I include in my state plan?

60.6270 Is there an approval process for my state plan?

60.6275 What if my state plan is not approvable?

60.6280 Is there an approval process for a negative declaration letter?

60.6285 What compliance schedule must I include in my state plan?

60.6290 Are there any state plan requirements for this subpart that supersede the requirements specified in subpart B?

60.6295 Does this subpart directly affect municipal waste combustion unit owners and operators in my state?

Applicability of State Plans

60.6300 What municipal waste combustors must I address in my state plan?

60.6305 Are any large municipal waste combustors exempt from my state plan?

60.6310 What subcategories of large municipal waste combustors must I include in my state plan?

Use of Model Rule

60.6315 What is the “model rule” in this subpart?

60.6320 How does the model rule relate to the required elements of my state plan?

60.6325 What are the principal components of the model rule?

Model Rule—Increments or Progress

60.6330 What are my requirements for meeting increments of progress and achieving final compliance?

60.6335 When must I complete each increment of progress?

60.6340 What must I include in the notifications of achievement of my increments of progress?

- 60.6345 When must I submit the notifications of achievement of increments of progress?
- 60.6350 What if I do not meet an increment of progress?
- 60.6355 How do I comply with the increment of progress for submittal of a control plan?
- 60.6360 How do I comply with the increment of progress for awarding contracts?
- 60.6365 How do I comply with the increment of progress for initiating onsite construction?
- 60.6370 How do I comply with the increment of progress for completing onsite construction?
- 60.6375 How do I comply with the increment of progress for achieving final compliance?
- 60.6380 What must I do if I close my municipal waste combustion unit and then restart my municipal waste combustion unit?
- 60.6385 What must I do if I plan to permanently close my municipal waste combustion unit and not restart it?

Model Rule—Good Combustion Practices: Operator Training

- 60.6390 What types of training must I do?
- 60.6395 Who must complete the operator training course? By when?
- 60.6400 Who must complete the plant-specific training course?
- 60.6405 What plant-specific training must I provide?
- 60.6410 What information must I include in the plant-specific operating manual?
- 60.6415 Where must I keep the plant-specific operating manual?

Model Rule—Good Combustion Practices: Operator Certification

- 60.6420 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?
- 60.6425 After the required date for operator certification, who may operate the municipal waste combustion unit?
- 60.6430 What if all the certified operators must be temporarily offsite?

Model Rule—Good Combustion Practices: Operating Requirements

- 60.6435 What are the operating practice requirements for my municipal waste combustion unit?
- 60.6440 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

Model Rule—Emission Limits

- 60.6445 What pollutants are regulated by this subpart?
- 60.6450 What emission limits must I meet? By when?
- 60.6455 What happens to the emission limits during periods of startup, shutdown, and malfunction?

Model Rule—Continuous Emission Monitoring

- 60.6460 What types of continuous emission monitoring must I perform?

- 60.6465 What continuous emission monitoring systems must I install for gaseous pollutants?
- 60.6470 How are the data from the continuous emission monitoring systems used?
- 60.6475 How do I make sure my continuous emission monitoring systems are operating correctly?
- 60.6480 What is my schedule for evaluating continuous emission monitoring systems?
- 60.6485 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?
- 60.6490 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is the data collection requirement enforceable?
- 60.6495 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?
- 60.6500 What is required for my continuous opacity monitoring system and how are the data used?
- 60.6505 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?
- 60.6510 What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

Model Rule—Stack Testing

- 60.6515 What types of stack tests must I conduct?
- 60.6520 How are the stack test data used?
- 60.6525 What schedule must I follow for the stack testing?
- 60.6530 What test methods must I use to stack test?
- 60.6535 May I conduct stack testing less often?
- 60.6540 May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

Model Rule—Other Monitoring Requirements

- 60.6545 Must I meet other requirements for continuous monitoring?
- 60.6550 How do I monitor the load of my municipal waste combustion unit?
- 60.6555 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?
- 60.6560 How do I monitor the injection rate of activated carbon?
- 60.6565 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?
- 60.6570 What requirements must I meet for estimating my municipal waste combustor capacity?

Model Rule—Recordkeeping

- 60.6575 What records must I keep?
- 60.6580 Where must I keep my records and for how long?
- 60.6585 What records must I keep for operator training and certification?

- 60.6590 What records must I keep for stack tests?
- 60.6595 What records must I keep for continuously monitored pollutants or parameters?
- 60.6600 What records must I keep for municipal waste combustors that use activated carbon?

Model Rule—Reporting

- 60.6605 What reports must I submit and in what form?
- 60.6610 What are the appropriate units of measurement for reporting my data?
- 60.6615 When must I submit the initial performance test report?
- 60.6620 What must I include in my initial performance test report?
- 60.6625 When must I submit the annual report?
- 60.6630 What must I include in my annual report?
- 60.6635 What must I do if I am out of compliance with the requirements of this subpart?
- 60.6640 If a semiannual report is required, when must I submit it?
- 60.6645 What must I include in the semiannual out-of-compliance reports?
- 60.6650 Can reporting dates be changed?

Model Rule—Air Curtain Incinerators That Burn 100 Percent Wood Waste, Clean Lumber, and/or Yard Waste

- 60.6655 What is an air curtain incinerator?
- 60.6660 What is yard waste?
- 60.6665 What are the emission limits for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?
- 60.6670 How must I monitor opacity for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?
- 60.6675 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

Equations

- 60.6680 What equations must I use?

Definitions

- 60.6685 What definitions must I know?

Introduction

§ 60.6250 What is the purpose of this subpart?

This subpart establishes emission guidelines and compliance schedules for the control of emissions from existing large municipal waste combustors. The pollutants addressed by the emission guidelines are listed in Tables 2 and 3 to Subpart WWW. The emission guidelines are developed in accordance with sections 111(d) and 129 of the Clean Air Act (CAA) and subpart B of this part.

§ 60.6255 Am I affected by this subpart? What authorities does the EPA Administrator retain?

(a) If you are the Administrator of an air quality program in a state or United

States protectorate with one or more existing large municipal waste combustors that commenced construction on or before January 23, 2024, you must submit a state plan to the U.S. Environmental Protection Agency (EPA) that implements the emission guidelines contained in this subpart.

(b) You must submit the state plan to EPA by March 10, 2027.

(c) You must submit a state plan that meets the requirements of this subpart and contains the more stringent emission limit for the respective pollutant in Table 3 to Subpart WWWW or the limits specified in § 60.52b of subpart Eb of this part to EPA by March 10, 2027 for large municipal waste combustors that commenced construction after September 20, 1994, but no later than January 23, 2024, or commenced modification or reconstruction after June 19, 1996 but no later than September 10, 2026.

(d) The following authorities are retained by EPA and not transferred to the state upon delegation of authority to the state to implement an approved state plan:

(1) Approval of exemption claims in § 60.6305(a), (b), (c), (d), and (g);

(2) Approval of major alternatives to test methods;

(3) Approval of major alternatives to monitoring;

(4) Waiver of recordkeeping;

(5) Performance test and data reduction waivers under § 60.8(b);

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

§ 60.6260 Is a state plan required for all states?

No, you are not required to submit a state plan if there are no existing large municipal waste combustors in your state and you submit a negative declaration letter in place of the state plan.

§ 60.6265 What must I include in my state plan?

(a) Include nine items:

(1) Inventory of affected municipal waste combustors, including those that have ceased operation but have not been dismantled.

(2) Inventory of emissions from affected municipal waste combustors in your state.

(3) Compliance schedules for each affected municipal waste combustor.

(4) Good combustion practices and emission limits for affected municipal waste combustors that are at least as protective as the emission guidelines contained in this subpart.

(5) Stack testing, continuous emission monitoring, recordkeeping, and reporting requirements.

(6) Certification that the hearing on the state plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(7) Provision for state progress reports to EPA.

(8) Identification of enforceable state mechanisms that you selected for implementing the emission guidelines of this subpart.

(9) Demonstration of your state's legal authority to carry out the CAA sections 111(d) and 129 state plan.

(b) Your state plan can deviate from the format and content of the emission guidelines contained in this subpart. However, if your state plan does deviate, you must demonstrate that your state plan is as protective as the emission guidelines contained in this subpart. Your state plan must address regulatory applicability, increments of progress for retrofit, operator training and certification, operating practice, emission limits, continuous emission monitoring, stack testing, recordkeeping, reporting, and air curtain incinerator requirements.

(c) For approval, your state plan must include the monitoring, recordkeeping and reporting requirements in § 60.6460 through § 60.6650 of this part, as applicable, except as provided for under § 60.24(b)(1) of subpart B of this part and paragraph (d) of this section.

(d) For approval, your state plan must include the alternative performance testing schedule for dioxins/furans specified in § 60.6535 of this section, as applicable, for those municipal waste combustors that achieve a dioxins/furans emission level less than or equal to 7 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen.

(e) Follow the requirements of subpart B of this part in your state plan.

§ 60.6270 Is there an approval process for my state plan?

The EPA will review your state plan according to § 60.27.

§ 60.6275 What if my state plan is not approvable?

If you do not submit an approvable state plan (or a negative declaration letter), EPA will develop a federal plan, according to § 60.27 to implement the emission guidelines contained in this subpart. Owners and operators of municipal waste combustors not covered by an approved and currently

effective state plan must comply with the federal plan. The federal plan is an interim action and, by its own terms, will cease to apply when your state plan is approved and becomes effective.

§ 60.6280 Is there an approval process for a negative declaration letter?

No, the EPA has no formal review process for negative declaration letters. Once your negative declaration letter has been received, EPA will place a copy in the public docket and publish a notice in the **Federal Register**. If, at a later date, an existing large municipal waste combustor is identified in your state, the federal plan implementing the emission guidelines contained in this subpart will automatically apply to that municipal waste combustor until your state plan is approved.

§ 60.6285 What compliance schedule must I include in my state plan?

(a) Your state plan must include compliance schedules that require large municipal waste combustors to achieve final compliance or cease operation as expeditiously as practicable but not later than the earlier of two dates:

(1) [March 10, 2031.

(2) Within 1 year after the effective date of state plan approval, but no later than 3 years after the effective date of state plan approval, as specified in paragraphs (b) and (c) of this section.

(b) For compliance schedules longer than 1 year but less than 3 years after the effective date of state plan approval, or if a permit modification is required, more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, state plans must include dates for enforceable increments of progress as specified in § 60.6340.

(c) For compliance schedules that allow designated facilities longer than 1 year but up to 3 years after the effective date of state plan approval to close, the state plan must require a closure agreement. The closure agreement must include the date of facility closure.

(d) The owner or operator of a municipal waste combustor who is planning an extensive emission control system upgrade may petition the Administrator for a longer compliance schedule than the schedule in paragraph (a)(1) of this section but must demonstrate to the satisfaction of the Administrator the need for the additional time. If approved, the compliance schedule may exceed the schedule in paragraph (a)(1) of this section, but cannot exceed March 10, 2031.

§ 60.6290 Are there any state plan requirements for this subpart that supersede the requirements specified in subpart B?

Subpart B of this part establishes general requirements for developing and processing CAA section 111(d) plans. This subpart applies instead of the requirements in subpart B of this part, for three items:

(a) *Option for case-by-case less stringent emission standards and longer compliance schedules.* State plans developed to implement this subpart must be as protective as the emission guidelines contained in this subpart. State plans must require all municipal waste combustors to comply no later than March 10, 2031. That requirement applies instead of the option for case-by-case less stringent emission standards and longer compliance schedules in § 60.24(e) and (f).

(b) *Increments of progress requirements.* A state plan that allows more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or more than 1 year but less than 3 years following approval of the state plan, if a permit modification is not required, must include measurable and enforceable incremental steps of progress towards compliance. Suggested measurable and enforceable activities are specified in paragraphs (b)(1) through (b)(10) of this section. This requirement applies instead of the requirement of § 60.24(d) that would require a state plan to include all five increments of progress for all municipal waste combustors.

(1) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);

(2) Date for obtaining design drawings of the air pollution control device(s);

(3) Date for submittal of permit modifications, if necessary;

(4) Date for submittal of the final control plan to the Administrator [§ 60.21 (h)(1) of subpart B of this part.];

(5) Date for ordering the air pollution control device(s);

(6) Date for obtaining the major components of the air pollution control device(s);

(7) Date for initiation of site preparation for installation of the air pollution control device(s);

(8) Date for initiation of installation of the air pollution control device(s);

(9) Date for initial startup of the air pollution control device(s); and

(10) Date for initial performance test(s) of the air pollution control device(s).

(c) *Date of submittal of state plan.*

Each state in which a designated facility is located shall submit to EPA a plan to implement and enforce all provisions of this subpart no later than March 10, 2027. This requirement is in accordance with section 129(b)(2) of the Clean Air Act and applies instead of the schedule required in § 60.23(a)(1) of subpart B of this part.

§ 60.6295 Does this subpart directly affect municipal waste combustor owners and operators in my state?

(a) No, this subpart does not directly affect large municipal waste combustor owners and operators in your state. However, large municipal waste combustor owners and operators must comply with the state plan you develop to implement the emission guidelines contained in this subpart. Some states may incorporate the emission guidelines contained in this subpart into their state plans by direct incorporation by reference. Others may include the model rule text directly in their state plan.

(b) All municipal waste combustors must be in compliance with the requirements established in this subpart by March 10, 2031, whether the municipal waste combustor is regulated under a state or federal plan.

APPLICABILITY OF STATE PLANS

§ 60.6300 What municipal waste combustors must I address in my state plan?

(a) Your state plan must address all existing large municipal waste combustors in your state that meet two criteria:

(1) The municipal waste combustor has the capacity to combust greater than 250 tons per day of municipal solid waste.

(2) The municipal waste combustor commenced construction on or before January 23, 2024.

(b) If an owner or operator of a municipal waste combustor makes changes that meet the definition of modification or reconstruction after September 10, 2026 for subpart VVVV of this part, the municipal waste combustor becomes subject to subpart VVVV of this part and the state plan no longer applies to that unit.

(c) If an owner or operator of a municipal waste combustor makes physical or operational changes to an existing municipal waste combustor primarily to comply with your state plan, subpart VVVV of this part (Standards of Performance for Large Municipal Waste Combustors) does not apply to that unit. Such changes do not constitute modifications or

reconstructions under subpart VVVV of this part.

(d) If an owner or operator of a municipal waste combustor meets the applicability requirements of this section, the unit is not subject to subparts Db or E of this part.

§ 60.6305 Are any large municipal waste combustors exempt from my state plan?

(a) *Small municipal waste combustors that combust less than 11 tons per day.* Units are exempt from your state plan if five requirements are met:

(1) The municipal waste combustor is subject to a federally enforceable permit limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(2) You are notified by the owner or operator that the unit qualifies for the exemption.

(3) You receive from the owner or operator of the unit a copy of the federally enforceable permit.

(4) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(5) The owner or operator of the unit submits the notification and data required by (a)(2) and (3) of this section as a portable document format (PDF) file electronically according to § 60.6605(e).

(b) *Small power production units.* Units are exempt from your state plan if five requirements are met:

(1) The unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) The unit combusts homogeneous waste (such as automotive tires or used oil, but excluding refuse-derived fuel) to produce electricity.

(3) You are notified by the owner or operator that the unit qualifies for the exemption.

(4) You receive documentation from the owner or operator that the unit qualifies for the exemption.

(5) The owner or operator of the unit submits the notification and data required by (b)(3) and (4) of this section as a PDF file electronically according to § 60.6605(e).

(c) *Cogeneration units.* Units are exempt from your state plan if five requirements are met:

(1) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) The unit combusts homogeneous waste (such as automotive tires or used oil, but excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You are notified by the owner or operator that the unit qualifies for the exemption.

(4) You receive documentation from the owner or operator that the unit qualifies for the exemption.

(5) The owner or operator of the unit submits the notification and data required by (c)(3) and (4) of this section as a PDF file electronically according to § 60.6605(e).

(d) *Municipal waste combustors that combust only tires.* Units are exempt from your state plan if four requirements are met:

(1) The municipal waste combustor combusts a single-item waste stream of tires.

(2) You are notified by the owner or operator that the unit qualifies for the exemption.

(3) You receive documentation from the owner or operator that the unit qualifies for the exemption.

(4) The owner or operator of the unit submits the notification and data required by (d)(2) and (3) of this section as a PDF file electronically according to § 60.6605(e).

(e) *Hazardous waste combustion units.* Units are exempt from your state plan if the units have received a permit under section 3005 of the Solid Waste Disposal Act.

(f) *Materials recovery units.* Units are exempt from your state plan if the units combust waste mainly to recover metals. Primary and secondary smelters may qualify for the exemption.

(g) *Co-fired units.* Units are exempt from your state plan if five requirements are met:

(1) The unit is a co-fired combustor as defined under § 60.6685 and has a federally enforceable permit limiting municipal solid waste combustion to 30 percent of the total fuel input by weight.

(2) You are notified by the owner or operator that the unit qualifies for the exemption.

(3) You receive from the owner or operator of the unit a copy of the federally enforceable permit.

(4) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(5) The owner or operator of the unit submits the notification and data required by (g)(2) and (3) of this section as a PDF file electronically according to § 60.6605(e).

(h) *Plastics/rubber recycling units.* Units are exempt from your state plan if five requirements are met:

(1) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined under “Definitions” (§ 60.6685).

(2) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(3) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(4) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(5) The owner or operator of the unit submits a notification that the pyrolysis/combustion is not subject to this subpart as a PDF file electronically according to § 60.6605(e).

(i) *Units that combust fuels made from products of plastics/rubber recycling plants.* Units are exempt from your state plan if two requirements are met:

(1) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(2) The unit does not combust any other municipal solid waste.

(j) *Cement kilns.* Cement kilns that combust municipal solid waste are exempt from your state plan.

(k) *Air curtain incinerators.* If an air curtain incinerator (see § 60.6685 for definition) meets the capacity specifications in § 60.6300(a) and combusts a fuel stream composed of 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste, then the unit must only meet the opacity standard, testing procedures, and the reporting and recordkeeping requirements under “Model Rule—Air Curtain Incinerators That Burn 100 Percent Yard Waste” (§§ 60.6655 through 60.6675). If an air curtain incinerator meets the capacity specifications in § 60.6300(a) and combusts municipal solid waste other than 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste, the unit is subject to all requirements of this subpart.

§ 60.6310 What subcategories of large municipal waste combustors must I include in my state plan?

(a) This subpart specifies different requirements for different subcategories of municipal waste combustors. You must use those same subcategories in your state plan. Those subcategories are

based on the municipal waste combustor type as follows (see § 60.6685 for definitions):

- (1) Mass burn refractory.
- (2) Mass burn rotary waterwall.
- (3) Mass burn waterwall.
- (4) Modular starved air.
- (5) Modular excess air.
- (6) Refuse-derived fuel stoker.
- (7) Bubbling fluidized bed combustor.
- (8) Circulating fluidized bed combustor.

(9) Pulverized coal/refuse-derived fuel mixed fuel-fired combustor.

(10) Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor.

(b) The requirements for municipal waste combustors of all types are identical except that carbon monoxide emissions limits are set separately for mass burn, modular, and refuse-derived fuel combustor types (see Table 2 to Subpart WWW).

Use of Model Rule

§ 60.6315 What is the “model rule” in this subpart?

(a) The model rule is the portion of the emission guidelines (§§ 60.6330 through 60.6680) that addresses the regulatory requirements applicable to large municipal waste combustors. The model rule provides the requirements in a regulation format.

(b) In the model rule, “you” means the owner or operator of a large municipal waste combustor.

§ 60.6320 How does the model rule relate to the required elements of my state plan?

The model rule may be used to satisfy the state plan requirements specified in § 60.6265(a)(4) and (5). Alternative language may be used in your state plan, but only if you can demonstrate that the alternative language is as protective as the model rule.

§ 60.6325 What are the principal components of the model rule?

The model rule contains five major components:

- (a) Increments of progress toward compliance.
- (b) Good combustion practices:
 - (1) Operator training.
 - (2) Operator certification.
 - (3) Operating requirements.
- (c) Emission limits.
- (d) Monitoring and stack testing.
- (e) Recordkeeping and reporting.

Model Rule—Increments or Progress

§ 60.6330 What are my requirements for meeting increments of progress and achieving final compliance?

If you plan to achieve compliance more than 1 year but less than 3 years following the effective date of state plan

approval and a permit modification is not required, or more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit if a permit modification is required, you must meet five increments of progress:

- (a) Submit a final control plan.
- (b) Submit a notification of retrofit contract award.
- (c) Initiate onsite construction.
- (d) Complete onsite construction.
- (e) Achieve final compliance.

§ 60.6335 When must I complete each increment of progress?

Table 1 to Subpart WWW specifies compliance dates for each of the increments of progress.

§ 60.6340 What must I include in the notifications of achievement of my increments of progress?

Your notification of achievement of increments of progress must include three items:

- (a) Notification that the increment of progress has been achieved.
- (b) Any items required to be submitted with the increment of progress (§§ 60.6355 through 60.6375).
- (c) The notification must be signed by the owner or operator of the municipal waste combustor.

§ 60.6345 When must I submit the notifications of achievement of increments of progress?

Notifications of the achievement of increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

§ 60.6350 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the specified date in Table 1 to Subpart WWW for achieving that increment of progress. The notification must inform the Administrator that you did not meet the increment. You must include in the notification an explanation of why the increment of progress was not met and your plan for meeting the increment as expeditiously as possible. You must continue to submit reports each subsequent month until the increment of progress is met.

§ 60.6355 How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must complete two items:

- (a) Submit the final control plan, including a description of the devices for air pollution control and process

changes that you will use to comply with the emission limits and other requirements of this subpart.

- (b) You must maintain an onsite copy of the final control plan.

§ 60.6360 How do I comply with the increment of progress for awarding contracts?

You must submit a signed copy of the contracts awarded to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporate process changes. Submit the copy of the contracts with the notification that the increment of progress has been achieved. You do not need to include documents incorporated by reference or the attachments to the contracts.

§ 60.6365 How do I comply with the increment of progress for initiating onsite construction?

You must initiate onsite construction and installation of emission control equipment and initiate the process changes outlined in the final control plan.

§ 60.6370 How do I comply with the increment of progress for completing onsite construction?

You must complete onsite construction and installation of emission control equipment and complete process changes outlined in the final control plan.

§ 60.6375 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete two items:

- (a) Complete all process changes and complete retrofit construction as specified in the final control plan.
- (b) Connect the air pollution control equipment with the municipal waste combustor identified in the final control plan and complete process changes to the municipal waste combustor so that if the affected municipal waste combustor is brought online, all necessary process changes and air pollution control equipment are operating as designed.

§ 60.6380 What must I do if I close my municipal waste combustor and then restart my municipal waste combustor?

- (a) If you close your municipal waste combustor but will reopen it prior to the final compliance date in your state plan, you must meet the increments of progress specified in § 60.6380.

- (b) If you close your municipal waste combustor but will restart it after your final compliance date, you must complete emission control retrofit and meet the emission limits and good

combustion practices on the date your municipal waste combustor restarts operation.

§ 60.6385 What must I do if I plan to permanently close my municipal waste combustor and not restart it?

- (a) If you plan to close your municipal waste combustor rather than comply with the state plan, you must submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

- (b) If the closure date is later than 1 year but up to 3 years after the effective date of state plan approval, you must enter into a legally binding closure agreement with the Administrator by the date your final control plan is due. The agreement must specify the date by which operation will cease.

Model Rule—Good Combustion Practices: Operator Training

§ 60.6390 What types of training must I do?

There are two types of required training:

- (a) Training of operators of municipal waste combustors using the EPA or a state-approved training course.

- (b) Training of plant personnel using a site-specific training course.

§ 60.6395 Who must complete the operator training course? By when?

- (a) Three types of employees must complete the EPA or state-approved operator training course:

- (1) Chief facility operators.
- (2) Shift supervisors.
- (3) Control room operators.

- (b) Those employees must complete the operator training course by the later of two dates:

- (1) Six months after your municipal waste combustor starts up.

- (2) The date before an employee assumes responsibilities that affect operation of the municipal waste combustor.

- (c) The requirement in paragraph (a) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval.

- (d) You may request that the EPA Administrator waive the requirement in paragraph (a) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval.

§ 60.6400 Who must complete the site-specific training course?

All employees with responsibilities that affect how a municipal waste combustor operates must complete the site-specific training course. Include at least six types of employees:

- (a) Chief facility operators.
- (b) Shift supervisors.
- (c) Control room operators.
- (d) Ash handlers.
- (e) Maintenance personnel.
- (f) Crane or load handlers.

§ 60.6405 What site-specific training must I provide?

For site-specific training, you must do four things:

(a) For training at a particular facility, develop a site-specific operating manual for that facility by the later of two dates:

- (1) Six months after your municipal waste combustor starts up.
- (2) The date prior to the date an employee assumes responsibilities that affect operation of the municipal waste combustor.

(b) Establish a training program to review the site-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustor. Complete the initial review by the later of two dates:

- (1) Six months after your municipal waste combustor starts up.
- (2) The date prior to the date an employee assumes responsibilities that affect operation of the municipal waste combustor.
- (c) Update your manual annually.
- (d) Following the initial review, review your operating manual with staff annually.

§ 60.6410 What information must I include in the site-specific operating manual?

You must include 11 items in the operating manual for your facility:

- (a) A summary of all applicable standards in this subpart.
- (b) A description of the basic combustion theory that applies to a municipal waste combustor.
- (c) Procedures for receiving, handling, and feeding municipal solid waste.
- (d) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustor.
- (e) Procedures for maintaining a proper level of combustion air supply.
- (f) Procedures for operating the municipal waste combustor in compliance with the standards contained in this subpart.
- (g) Procedures for responding to periodic upset or off-specification conditions.

(h) Procedures for minimizing carryover of particulate matter.

(i) Procedures for handling ash.

(j) Procedures for monitoring emissions from the municipal waste combustor.

(k) Procedures for recordkeeping and reporting.

§ 60.6415 Where must I keep the site-specific operating manual?

You must keep your operating manual in a readily accessible location at your facility. It must be available for review or inspection for all persons required to undergo training as specified in § 60.6395. The operating manual and records of training as specified in § 60.6585 shall be available for inspection by the EPA or its delegated enforcement agency upon request.

Model Rule—Good Combustion Practices: Operator Certification**§ 60.6420 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?**

(a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers (QRO-1-2005) (incorporated by reference in § 60.17 of subpart A of this part) or a current provisional operator certification from your state certification program by the later of two dates:

- (1) Six months after the municipal waste combustor starts up.
- (2) Six months after they transfer to the municipal waste combustor or 6 months after they are hired to work at the municipal waste combustor.

(b) Each chief facility operator and shift supervisor must obtain and maintain a provisional certification, and must complete the full certification or be scheduled to take the full certification exam, by the later of two dates:

- (1) Six months after the municipal waste combustor starts up.
- (2) For a provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position, a full certification exam must be completed within six months after they transfer to the municipal waste combustor or 6 months after they are hired to work at the municipal waste combustor.

(c) Each chief facility operator and shift supervisor must take one of three actions:

- (1) Obtain and maintain a current provisional operator certification from the American Society of Mechanical

Engineers or a state certification program in your state.

(2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO-1-2005) (incorporated by reference in § 60.17 of subpart A of this part).

(3) Schedule a full certification exam with your state certification program.

§ 60.6425 After the required date for operator certification, who may operate the municipal waste combustor?

After the required date for full or provisional certification, you must not operate your municipal waste combustor unless one of four employees is on duty:

- (a) A fully certified chief facility operator.
- (b) A fully certified shift supervisor.
- (c) A provisionally certified chief facility operator or a provisionally certified shift supervisor who is scheduled to take the full certification exam specified in § 60.6420.

§ 60.6430 What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustor may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, you must meet one of three criteria:

(a) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor.

(b) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include the information in the annual report as specified under § 60.6630(l).

(c) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must take two actions:

(1) Notify the Administrator in writing. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite, as expeditiously as practicable. Submit this notification as a PDF file electronically according to § 60.6605(e).

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks following the initial notification. If the Administrator notifies you that your status report or corrective action summary is disapproved, the municipal waste combustor may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Administrator withdraws the disapproval, municipal waste combustor operation may continue. Submit this status report as a PDF file electronically according to § 60.6605(e).

(d) A provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position at the municipal waste combustor may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Administrator for up to six months before taking the ASME QRO certification exam as specified in § 60.6420.

Model Rule—Good Combustion Practices: Operating Requirements

§ 60.6435 What are the operating practice requirements for my municipal waste combustor?

(a) You must meet the carbon monoxide emission limits specified in Table 2 to Subpart WWWW no later than March 10, 2031.

(b) You must not operate your municipal waste combustor at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustor (4-hour block average), as specified under “Definitions” (§ 60.6685), except as specified in paragraphs (b)(1) and (2) of this section. The averaging time is specified under § 60.6550.

(1) During the annual dioxins/furans or mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the municipal waste combustor load limit is not applicable if the provisions of paragraph (b)(2) of this section are met.

(2) The Administrator may waive in writing the municipal waste combustor load limit for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities

for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The municipal waste combustor load limit continues to apply, and remains enforceable, until and unless the Administrator grants the waiver.

(c) You must not operate your municipal waste combustor so that the temperature measured at the inlet of the particulate matter control device exceeds 17 °C above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified under “Definitions” (§ 60.6685), except as specified in paragraphs (c)(1) and (2) of this section. The averaging time is specified under § 60.6555. The requirements specified in this paragraph apply to each particulate matter control device used.

(1) During the annual dioxins/furans or mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the particulate matter control device temperature limitations are not applicable if the provisions of paragraph (c)(2) of this section are met.

(2) The Administrator may waive in writing the particulate matter control device temperature limits for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The temperature limits continue to apply, and remain enforceable, until and unless the Administrator grants the waiver.

(d) If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, you must meet the requirements for activated carbon injection rate during dioxins/furans or mercury testing as specified in § 60.6560.

§ 60.6440 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

The operating requirements under this subpart apply at all times including periods of municipal waste combustor warmup, startup, shutdown, and malfunction. Monitoring data cannot be dismissed or excluded from compliance calculations during periods of startup, shutdown, or malfunction, but must be recorded and reported in accordance with the provisions of § 60.6595(e).

Model Rule—Emission Limits

§ 60.6445 What pollutants are regulated by this subpart?

Eleven pollutants, in four groupings, are regulated:

- (a) Organics. Dioxins/furans.
- (b) Metals.
 - (1) Cadmium.
 - (2) Lead.
 - (3) Mercury.
 - (4) Opacity.
 - (5) Particulate matter.
- (c) Acid gases.
 - (1) Hydrogen chloride.
 - (2) Nitrogen oxides.
 - (3) Sulfur dioxide.
- (d) Other.
 - (1) Carbon monoxide.
 - (2) Fugitive ash.

§ 60.6450 What emission limits must I meet? By when?

(a) You must meet the emission limits specified in Table 3 to Subpart WWWW. You must meet the limits no later than March 10, 2031.

(b) The visible emissions of combustion ash discharged to the atmosphere from an ash conveying system (including conveyor transfer points) must not exceed 5 percent of the observation period (*i.e.*, 9 minutes per 3-hour period), as determined by EPA Reference Method 22 observations as specified in § 60.6530(a). You must meet the limits no later than March 10, 2031. This visible emission limit does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the visible emission limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems. This visible emissions limit does not apply to visible emissions that occur during repair and maintenance of the combustion ash conveying systems while the municipal waste combustor is not operating.

§ 60.6455 What happens to the emission limits during periods of startup, shutdown, and malfunction?

The emission limits under this subpart apply at all times including periods of municipal waste combustor warmup, startup, shutdown, and malfunction. Monitoring data cannot be dismissed or excluded from compliance calculations during periods of startup, shutdown, or malfunction, but must be recorded and reported in accordance with the provisions of § 60.6595(e).

Model Rule—Continuous Emission Monitoring

§ 60.6460 What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform four tasks:

(a) Install continuous emission monitoring systems for certain gaseous pollutants.

(b) Make sure your continuous emission monitoring systems are operating correctly.

(c) Make sure you obtain the minimum amount of monitoring data.

(d) Install a continuous opacity monitoring system.

§ 60.6465 What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen (or carbon dioxide), sulfur dioxide, carbon monoxide, and nitrogen oxides to demonstrate compliance with the emission limits specified in Tables 2 and 3 to Subpart WWWW. Install the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, carbon monoxide, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) If you elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride in lieu of performance testing, you must install, calibrate, maintain, and operate continuous emissions monitoring systems for monitoring the particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions discharged to the atmosphere and continuous emissions monitoring systems for oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(c) You must install, evaluate, and operate each continuous emission monitoring system according to the "Monitoring Requirements" in § 60.13.

(d) You must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor carbon monoxide, sulfur dioxide, and nitrogen oxides. If you elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride, you must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride.

(e) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required and you must follow the requirements in § 60.6485.

§ 60.6470 How are the data from the continuous emission monitoring systems used?

(a) You must use data from the continuous emission monitoring

systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in Tables 2 and 3 to Subpart WWWW. To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see § 60.6520.

(b) You may elect to continuously monitor emissions for particulate matter, cadmium, lead, mercury, or hydrogen chloride to demonstrate continuous compliance with the emission limits specified in Table 3 to Subpart WWWW.

(c) For pollutants that you continuously monitor as described in paragraphs (a) and (b) of this section, you may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in § 60.6485.

(d) For pollutants that you continuously monitor as described in paragraphs (a) and (b) of this section, demonstrate compliance with the emission limits in Tables 2 and 3 to Subpart WWWW by using the continuous emission monitoring system specified § 60.6465 to collect the minimum amount of monitoring data specified in § 60.6490 and calculating the average emission concentration as specified in § 60.6495 and Table 5 to Subpart WWWW, as applicable.

§ 60.6475 How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides, and carbon monoxide and your continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate.

(b) Complete your initial evaluation of the continuous emission monitoring systems no later than 180 days after your final compliance date, or, for pollutants for which you elect to continuously monitor emissions and for which you previously determined compliance by conducting a performance test, within 180 days of notification of the Administrator of use of the continuous monitoring system, whichever is later.

(c) For initial and annual evaluations, you must collect data concurrently (or within 30 to 60 minutes) from your oxygen (or carbon dioxide) continuous emission monitoring system, your sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emission monitoring systems, as appropriate, from continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate, and the appropriate test methods specified in Tables 4 and 5 to Subpart WWWW. Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in Table 4 to Subpart WWWW.

(d) For continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides, and carbon monoxide, follow the quality assurance procedures in Procedure 1 of appendix F of this part for each continuous emission monitoring system. The procedures include annual relative accuracy test audit, daily calibration drift, and quarterly accuracy determinations. For continuous emission monitoring systems for any pollutants (particulate matter, cadmium, lead, mercury, or hydrogen chloride) for which you elect to continuously monitor emissions, as appropriate, follow the quality assurance procedures of the applicable procedures of appendix F as specified in Table 3 to Subpart WWWW or the site-specific monitoring plan.

§ 60.6480 What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual relative accuracy test audits of your continuous emission monitoring systems no less than 9 calendar months and no more than 15 calendar months following the previous performance test; you must complete five relative accuracy test audits in each 5-year calendar period.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in procedure 1 in appendix F of this part.

§ 60.6485 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring systems. You may reestablish the relationship during annual performance

compliance tests. To establish the relationship use three procedures:

(a) Use EPA Reference Method 3A or 3B in appendix A of this part, or as an alternative the manual method portion of ASME PTC-19-10-1981—part 10, as applicable, to determine oxygen concentration at the location of your carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) Use the fuel-factor equation in EPA Reference Method 3B in appendix A of this part to determine the relationship between oxygen and carbon dioxide.

§ 60.6490 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides, and carbon monoxide, and, if you elect to continuously monitor emissions, the averages for particulate matter, cadmium, lead, mercury, or hydrogen chloride, are in the units specified in Tables 2 and 3 to Subpart WWWW at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level). The 1-hour arithmetic averages shall be calculated using the data points required under § 60.13(e)(2) of subpart A of this part. Do not correct CEMS data during warmup, startup, and shutdown, as defined in this subpart, to 7 percent oxygen. CEMS data during warmup, startup, and shutdown are used as measured.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Valid continuous monitoring system hourly averages shall be obtained for all times the affected facility is operated except as specified in § 60.13(e).

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations in accordance with § 60.6495.

§ 60.6495 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

(a) Use equation 1 in § 60.6680(a) to calculate emissions at 7 percent oxygen.

(b) Use the test methods in Table 4 to Subpart WWWW to calculate the 24-hr daily geometric average concentrations and percent reductions of sulfur dioxide emissions and the 24-hr daily arithmetic average for concentrations of nitrogen oxides.

(c) Calculate the 4-hour block or 24-hour daily arithmetic averages specified in Table 2 to Subpart WWWW (as applicable) from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7 percent oxygen (dry basis) for concentrations of carbon monoxide. CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are used as measured.

(d) If you elect to continuously monitor emissions of particulate matter, mercury, cadmium, lead, or hydrogen chloride, use EPA Reference Method 19, section 12.4.1, in appendix A of this part, to calculate a 24-hour daily block arithmetic average for emission concentrations.

§ 60.6500 What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to § 60.13.

(c) The output of the continuous opacity monitoring system shall be recorded on a 6-minute average basis.

(d) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in appendix B of this part. Complete the evaluation no later than 180 days after your final compliance date.

(e) Follow Table 4 to Subpart WWWW to establish the procedures and test methods to determine compliance with the opacity limit in Table 3 to Subpart WWWW. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§ 60.6505 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

(a) Use the required span values and applicable performance specifications in Table 4 to Subpart WWWW.

(b) For continuous emission monitoring systems measuring carbon monoxide, if your municipal waste combustor is subject to the 100 parts per million dry volume carbon monoxide standard, the relative accuracy criterion of 5 parts per million dry volume is calculated as the absolute value of the mean difference between the reference method and continuous emission monitoring systems.

§ 60.6510 What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

(a) When you are unable to obtain emissions of particulate matter, sulfur dioxide, or nitrogen oxides because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you must obtain emissions data by using other monitoring systems as approved by the Administrator or EPA Reference Method 19 and provide, as necessary, valid emissions data for all times that the municipal waste combustor is operated.

(b) If you are unable to obtain emissions of carbon monoxide emissions because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you must obtain emissions data by using other monitoring systems as approved by the Administrator or EPA Reference Method 10 and provide, as necessary, valid emissions data for all times that the municipal waste combustor is operated.

(c) If you elect to continuously monitor mercury, cadmium, lead, or hydrogen chloride and you are unable to obtain emissions data because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, you must obtain emissions data by using other monitoring systems as approved by the Administrator.

Model Rule—Stack Testing

§ 60.6515 What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, dioxins/furans, and fugitive ash in accordance with the methods specified in Table 5 to Subpart WWWW.

§ 60.6520 How are the stack test data used?

You must use results of stack tests for particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride,

dioxins/furans, and fugitive ash to demonstrate compliance with the applicable emission limits in Table 3 to Subpart WWWW. When calculating total dioxins/furans, zero may be used for congeners that are below the estimated detection limit (EDL). For estimated maximum possible concentration (EMPC) results, zero may be used when the EMPC is below the EDL, otherwise the EMPC must be used in determining total dioxins/furans. To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see § 60.6470.

§ 60.6525 What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for sulfur dioxide, nitrogen oxides, and each of the pollutants listed in § 60.6515 by 180 days after your final compliance date.

(b) Conduct annual stack tests for each of the pollutants listed in § 60.6515 after the initial stack test. Conduct each annual stack test no less than 9 calendar months and no more than 15 calendar months following the previous performance test, except as specified in § 60.6540 of this section. You must complete five performance tests in each 5-year calendar period.

§ 60.6530 What procedures and test methods must I use to stack test?

(a) Follow Table 5 to Subpart WWWW to establish the procedures and test methods, and other specific testing requirements for the different pollutants.

(b) Stack tests for all the pollutants must consist of at least three test runs, as specified in § 60.8, conducted under representative full load operating conditions. For particulate matter, opacity, cadmium, lead, mercury, hydrogen chloride, and dioxins/furans, use the arithmetic average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in Table 3 to Subpart WWWW. For fugitive ash, use the average duration of visible emissions per hour as calculated from three 1-hr observations to determine compliance with the emission limits in Table 2 to Subpart WWWW.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in § 60.6465.

(d) You may request that compliance with emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between

oxygen and carbon dioxide levels for the affected facility shall be established as specified in § 60.6485.

(e) Use equation 1 in § 60.6680(a) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis). See the individual test methods in Table 5 to Subpart WWWW for other required equations.

§ 60.6535 May I conduct stack testing less often?

(a) For annual performance stack tests for dioxins/furans, you may conduct annual stack tests on an alternate performance testing schedule for the purposes of evaluating system performance to establish new operating parameter levels, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. You may test one unit for dioxins/furans and apply the dioxins/furans operating parameters to similarly designed and equipped units on site if you meet the following conditions. First, you have multiple municipal waste combustors onsite that are subject to this subpart. Second, all those municipal waste combustors have demonstrated levels of dioxins/furans emissions less than or equal to 7 nanograms per dry standard cubic meter (total mass) for 2 consecutive years. In that case, you may choose to conduct annual stack tests on only one municipal waste combustor per year at your plant. The provision only applies to performance testing for dioxins/furans emissions. You must meet the requirements in paragraphs (b) through (e) of this section.

(b) At a minimum, you must conduct a performance test for dioxins/furans emissions for one municipal waste combustor on an annual basis (no less than 9 calendar months and no more than 15 months following the previous performance test), and you must complete five performance tests in each 5-year calendar period. Each year a different municipal waste combustor must be tested, and the municipal waste combustor must be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable).

(1) If each annual performance test continues to indicate a dioxins/furans emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass), you may continue to conduct a performance test on only one municipal waste combustor per year.

(2) If any annual performance test indicates a dioxins/furans emission level greater than 3.6 nanograms per dry standard cubic meter (total mass), you

must conduct all subsequent annual performance tests on all municipal waste combustor. You must continue to conduct performance tests on all units annually until you can demonstrate dioxins/furans emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass) through performance tests for all units subject to this subpart for 2 consecutive years.

(c) Upon meeting the requirements in paragraph (b) of this section for one affected facility, you may elect to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels for dioxins/furans as established in § 60.6560 to similarly designed and equipped units on site.

(d) Upon testing each subsequent unit in accordance with the testing schedule established in paragraph (b) of this section, the dioxins/furans and mercury emissions of the subsequent unit must not exceed the dioxins/furans and mercury emissions measured in the most recent test of that unit prior to the revised operating parameter levels.

(e) If you follow the performance testing schedule specified in paragraph (b) of this section and apply the carbon injection system operating parameters to similarly designed and equipped units on site, you must follow the procedures specified in § 60.6630(j) for reporting, including the procedures specified in § 60.6630(i) for reporting the selection of this schedule.

§ 60.6540 May I conduct continuous monitoring or sampling in lieu of stack testing?

(a) In lieu of conducting performance stack tests according to the requirements of § 60.6515 to demonstrate continuous compliance for particulate matter, cadmium, lead, mercury, or hydrogen chloride, you may install, calibrate, maintain, and operate continuous emissions monitoring systems for monitoring emissions according to the requirements of § 60.6460 through § 60.6510. If you elect to continuously monitor emissions instead of conducting performance testing, you are not required to complete annual performance testing as specified in Table 5 to Subpart WWWW. If you elect to continuously monitor particulate matter emissions, you are not required to continuously monitor opacity as specified in § 60.6460(d) and § 60.6500.

(b) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, you must also meet the following requirements:

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(c) If you elect to install, calibrate, maintain, and operate a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, develop and submit for approval by EPA, a site-specific mercury, cadmium, lead, or hydrogen chloride monitoring plan that addresses the elements and requirements in paragraphs (c)(1) through (7) of this section.

(1) Installation of the continuous emission monitoring system sampling probe or other interface at a measurement location relative to each municipal waste combustor such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(4) Provisions for periods when the continuous emission monitoring system is out of control, including the requirements described in paragraphs (c)(4)(i) through (iii) of this section:

(i) A continuous emission monitoring system is out of control if either of the following conditions are met: the zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard; or the continuous emission monitoring system fails a performance test audit (*e.g.*, cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit.

(ii) When the continuous emission monitoring system is out of control, take corrective action and repeat all necessary tests that indicate that the system is out of control until the performance requirements are within the applicable limits. The beginning of the out-of-control period is the hour you conduct a performance check (*e.g.*, calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and your successful demonstration that the system is within the allowable limits.

You may not use recorded data from the period the continuous emission monitoring system is out of control in data averages and calculations or to meet any data availability requirements.

(iii) You must submit all information concerning out-of-control periods for your continuous emission monitoring system, including start and end dates and hours and descriptions of corrective actions taken, in the annual or semiannual compliance reports required in § 60.6645(d).

(5) Ongoing data quality assurance procedures for continuous emission monitoring systems as described in paragraphs (c)(5)(i) and (ii) of this section.

(i) A continuous emission monitoring system quality control program. You must develop and, upon request, submit to EPA for approval a site-specific performance evaluation test plan for the continuous emission monitoring system performance evaluation required under paragraph (c)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (c)(5)(i)(A) through (c)(5)(i)(F) of this section.

(A) Initial and any subsequent calibration of the continuous emission monitoring system;

(B) Determination and adjustment of the calibration drift of the continuous emission monitoring system;

(C) Preventive maintenance of the continuous emission monitoring system, including spare parts inventory;

(D) Data recording, calculations, and reporting;

(E) Accuracy audit procedures, including sampling and analysis methods; and

(F) Program of corrective action for a malfunctioning continuous emission monitoring system.

(ii) Your performance evaluation test plan must include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data. The internal quality assurance program must include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous emission monitoring system performance, for example, plans for relative accuracy testing using the appropriate reference method in § 60.6475(c). The external quality assurance program shall include, at a

minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) You must conduct a performance evaluation of each continuous emission monitoring system in accordance with the site-specific monitoring plan.

(7) You must operate and maintain the continuous emission monitoring system in continuous operation according to the site-specific monitoring plan and procedures 5 and 6 of appendix F of this part.

(d) You may use a continuous emission monitoring system for mercury or hydrogen chloride following the date of approval of the site-specific monitoring plan required in paragraph (c) of this section. You may use a continuous emission monitoring system for cadmium or lead following the date a final performance specification applicable to a cadmium or lead monitor is published in the **Federal Register** and the date of approval of the site-specific monitoring plan required in paragraph (c) of this section.

(e) In lieu of conducting performance stack tests according to the requirements of § 60.6515 to demonstrate continuous compliance for mercury or dioxins/furans, you may install, calibrate, maintain, and operate a continuous automated sampling system for monitoring mercury or dioxins/furans emissions and record the output of the system. For dioxins/furans emissions, you must also analyze the sample using EPA Method 23.

(f) You may use a continuous automated sampling system for dioxins/furans following the date a final performance specification applicable to dioxins/furans from monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan.

(g) If you elect to use a continuous automated sampling system for dioxins/furans or mercury, you must meet the following requirements:

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(3) Complete your initial performance evaluation of the continuous automated sampling system no later than 180 days after your final compliance date, or, if you previously determined compliance by conducting a performance test, within 180 days of notification to the Administrator of use of the continuous

automated sampling system, whichever is later.

(4) You may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in § 60.6485.

(5) Conduct an initial performance test for emissions as required under § 60.8 of subpart A of this part. Determine compliance with the emission limits in Table 2 to Subpart WWWW using the continuous automated sampling system specified in paragraph (e) of this section to collect integrated samples and analyze emissions for the following time periods:

(i) For dioxins/furans, collect an integrated sample over each 2-week period. Analyze the collected samples using Method 23.

(ii) For mercury, collect an integrated sample over each 24-hour daily period. Analyze the sample according to the applicable final performance specification or the approved site-specific monitoring plan required by paragraph (h) of this section.

(6) Determine compliance with the emission limits in Table 2 to Subpart WWWW based on 2-week emission concentrations for dioxins/furans and on the 24-hour daily emission concentrations for mercury using samples collected at the system outlet. For mercury percent reductions, also use the corresponding 24-hour daily emission concentration samples collected at the system inlet. The emission concentrations shall be expressed in nanograms per dry standard cubic meter (total mass) for dioxins/furans and micrograms per dry standard cubic meter for mercury, corrected to 7 percent oxygen (dry basis). Do not correct CEMS data during warmup, startup, and shutdown to 7 percent oxygen. CEMS data during warmup, startup, and shutdown are used as measured.

(7) Beginning on the date two years after the respective final performance specification for continuous automated sampling systems for dioxins/furans is published in the **Federal Register** or on the date two years after approval of a site-specific monitoring plan, you must operate your continuous automated sampling system and collect emissions for all times that your municipal waste combustor is operating.

(8) Use all valid data in calculating emission concentrations.

(9) For mercury, operate the continuous automated sampling system

according to Performance Specification 12B in appendix B of this part or, for mercury or dioxins/furans, the approved site-specific monitoring plan.

(10) If you elect to install, calibrate, maintain, and operate a continuous automated sampling system for dioxins/furans or mercury, develop and implement a site-specific monitoring plan as specified in paragraph (h) of this section. If you rely on a performance specification, you may refer to that document in addressing the applicable procedures and criteria. For mercury, you must incorporate procedure 5 of appendix F to this part into the site-specific monitoring plan.

(11) When you are unable to obtain emissions data because of continuous automated sampling system breakdowns, repairs, quality assurance checks, or adjustments, you must obtain parametric monitoring data by using other monitoring systems as approved by EPA.

(h) If you elect to install, calibrate, maintain, and operate a continuous automated sampling system for dioxins/furans or mercury, develop and submit for approval by EPA a site-specific monitoring plan that has sufficient detail to assure the validity of the continuous automated sampling system data and that addresses the elements and requirements in paragraphs (h)(1) through (7) of this section.

(1) Installation of the continuous automated sampling system sampling probe or other interface at a measurement location relative to each municipal waste combustor such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analytical method, and the data collection system.

(3) Performance evaluation procedures and acceptance criteria.

(4) Provisions for periods when the continuous automated sampling system is malfunctioning or is out of control, including the requirements described in paragraphs (h)(4)(i) through (iii) of this section.

(i) The site-specific monitoring plan must identify criteria for determining that the continuous automated sampling system is out of control, including periods when the sampling system is not collecting a representative sample or is malfunctioning, or when the analytical method does not meet site-specific quality criteria established in paragraph (h)(5) of this section.

(ii) When the continuous automated sampling system is out of control, take

corrective action and repeat all necessary tests that indicate that the system is out of control until the performance requirements are within the applicable limits. The out-of-control period includes all hours that the sampling system was not collecting a representative sample or was malfunctioning, or hours represented by a sample for which the analysis did not meet the relevant quality criteria. You may not use emissions data from the period the continuous automated sampling system is out-of-control period to determine compliance with the emission limits or to meet any data availability requirements.

(iii) You must submit all information concerning out-of-control periods for your continuous automated sampling system, including start and end dates and hours, estimates of emissions during the out-of-control period and the basis of the estimate, and descriptions of corrective actions taken, in the annual or semiannual compliance reports required in § 60.6645(d).

(5) Ongoing data quality assurance procedures for continuous automated sampling systems as described in paragraphs (h)(5)(i) and (ii) of this section.

(i) A continuous automated sampling system and analysis quality control program. You must develop and submit to EPA for approval, upon request, a site-specific performance evaluation test plan for the continuous automated sampling system performance evaluation required in paragraph (h)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (h)(5)(i)(A) through (G) of this section.

(A) Correct placement, installation of the continuous automated sampling system such that the system is collecting a representative sample of gas;

(B) Initial and subsequent calibration of flow such that the sample collection rate of the continuous automated sampling system is known and verifiable;

(C) Procedures to assure representative (e.g., proportional or isokinetic) sampling;

(D) Preventive maintenance of the continuous automated sampling system, including spare parts inventory and procedures for cleaning equipment, replacing sample collection media, or other servicing at the end of each sample collection period;

(E) Data recording and reporting, including an automated indicator and recording device to show when the

continuous automated monitoring system is operating and collecting data and when it is not collecting data;

(F) Accuracy audit procedures for analytical methods; and

(G) Program of corrective action for a malfunctioning continuous automated sampling system.

(ii) Your performance evaluation test plan must include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data. The internal quality assurance program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous automated sampling system performance, for example, plans for relative accuracy testing using the appropriate reference method in paragraph (h)(3) of this section, and an assessment of quality of analysis results. The external quality assurance program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) You must conduct a performance evaluation of each continuous automated sampling system in accordance with the site-specific monitoring plan.

(7) You must operate and maintain the continuous automated sampling system in continuous operation according to the site-specific monitoring plan.

Model Rule—Other Monitoring Requirements

§ 60.6545 Must I meet other requirements for continuous monitoring?

You must also monitor all the following three operating parameters:

(a) Load level of each municipal waste combustor.

(b) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§ 60.6550 How do I monitor the load of my municipal waste combustor?

(a) If your municipal waste combustor generates steam, you must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet all the following five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) flow in kilograms (or pounds) per hour.

(2) Calculate your steam (or feed water) flow in 4-hour block arithmetic averages.

(3) Calculate the steam (or feed water) flow rate using the method in “American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1—1964 (R1991),” section 4 (incorporated by reference, see § 60.17 of subpart A of this part).

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in “American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, part II of Fluid Meters,” 6th Edition (1971), chapter 4 (incorporated by reference, see § 60.17 of subpart A of this part).

(5) Before each dioxins/furans performance stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions. Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

(b) Determine the maximum demonstrated municipal waste combustor load during the initial performance test for dioxins/furans and each subsequent performance test specified in § 60.6525 during which you achieve compliance with the dioxins/furans emission limit in Table 3 to Subpart WWW. The maximum demonstrated municipal waste combustor load is the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.6535, you may apply the same maximum municipal waste combustor load from the tested facility for all the similarly designed and operated municipal waste combustors.

§ 60.6555 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

(a) You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

(b) Calculate the temperature of the flue gas stream in 4-hour block arithmetic averages.

(c) Determine the maximum demonstrated particulate matter control device temperature for each particulate matter control device during the initial performance test for dioxins/furans and each subsequent performance test specified in § 60.6525 during which you achieve compliance with the dioxins/furans emission limit. The maximum demonstrated particulate matter control device temperature is the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecutive hours during the most recent test. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.6535, you may apply the same maximum particulate matter control device temperature from the tested facility for all the similarly designed and operated municipal waste combustors.

§ 60.6560 How do I monitor the injection rate of activated carbon?

If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(a) Select a carbon injection system operating parameter(s) that can be used to calculate carbon feed rate (for example, screw feeder speed, hopper volume, or hopper refill frequency).

(b) During the initial and each subsequent dioxins/furans and mercury performance stack test specified in § 60.6525, estimate an average carbon feed rate in kilograms (or pounds) per hour. You must determine an average operating parameter level that correlates to the carbon feed rate and establish a relationship between the operating parameter(s) and the carbon feed rate in order to estimate the average carbon feed rate. If a subsequent dioxins/furans performance test is being performed on only one municipal waste combustor as specified in § 60.6535, you may apply the same estimated average carbon mass feed rate from the tested facility for all the similarly designed and operated municipal waste combustors.

(c) Continuously monitor the selected carbon injection operating parameter(s) (as specified in paragraph (b) of this section) during all periods when the municipal waste combustor is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. The 8-hour block average must equal or exceed the level(s) documented during the performance tests specified under paragraph (b) of this section, except that during the annual dioxins/furans or

mercury performance test and the 2 weeks preceding the annual dioxins/furans or mercury performance test, the limit for average mass carbon feed rate may be waived following permission of the Administrator if the tests are for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

(d) You must estimate the total carbon usage of the facility (kilograms or pounds) for each calendar quarter using two independent methods:

(1) The weight of carbon delivered to the facility.

(2) Estimate the average carbon mass feed rate in kilograms per hour or pounds per hour for each hour of operation for each municipal waste combustor, based on the selected carbon injection operating parameter(s) specified in paragraph (b) of this section, and as specified in equation 2 to § 60.6680.

(e) Use pneumatic injection pressure or another carbon injection system operational indicator for additional verification of proper carbon injection system operation. The operational indicator must provide an instantaneous visual and/or audible alarm to alert the operator of a potential interruption in the carbon feed that would not normally be indicated by direct monitoring of carbon mass feed rate (e.g., continuous weight loss feeder) or monitoring of the carbon system operating parameter(s) that are the indicator(s) of carbon mass feed rate (e.g., screw feeder speed). The carbon injection system operational indicator used to provide additional verification of carbon injection system operation, including basis for selecting the indicator and operator response to the indicator alarm, shall be included in the site-specific operating manual required under § 60.6410 of this subpart.

§ 60.6565 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for all the following three parameters:

(1) Load level of the municipal waste combustor.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour arithmetic averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter.

§ 60.6570 What requirements must I meet for estimating my municipal waste combustor capacity?

(a) You must calculate the capacity for each continuous municipal waste combustor (e.g., capable of combusting continuously for a 24-hour period) based on 24 hours of operation at the maximum charging rate. You must determine the maximum charging rate separately for combustors that are designed based on heat capacity and for combustors that are not designed based on heat capacity.

(1) For combustors that are designed based on heat capacity, calculate the maximum charging rate based on the maximum design heat input capacity of the unit and a heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel or a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

(2) For combustors that are not designed based on heat capacity, the maximum charging rate is the maximum design charging rate.

(b) You must calculate the capacity for each batch feed municipal waste combustor based on the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period.

(1) You must calculate the maximum number of batches that could be processed in a 24-hour period by dividing 24 hours by the design number of hours required to process one batch of municipal solid waste. The maximum number of batches may include a fraction (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period).

(2) For batch combustors that are designed based on heat capacity, calculate the municipal waste combustor capacity in megagrams per day, based on the design heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel, or a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

Model Rule—Recordkeeping

§ 60.6575 What records must I keep?

You must keep all the following four types of records:

- (a) Operator training and certification.
- (b) Stack tests.
- (c) Continuously monitored pollutants and parameters.
- (d) Carbon feed rate.

§ 60.6580 Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the Administrator approves another format. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(b) Keep all records on each municipal waste combustor for at least 5 years.

(c) Make all records available for submittal to the Administrator, or for onsite review by an inspector.

§ 60.6585 What records must I keep for operator training and certification?

You must keep records of all the following six items:

(a) *Records of provisional certifications.* Include three items:

(1) Names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(2) Dates of the initial and renewal provisional certifications.

(3) Documentation showing current provisional certifications.

(b) *Records of full certifications.*

Include three items:

(1) Names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(2) Dates of initial and renewal full certifications.

(3) Documentation showing current full certifications.

(c) *Records showing completion of the operator training course.* Include all the following three items:

(1) Names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or state municipal waste combustion operator training course.

(2) Dates of completion of the operator training course.

(3) Documentation showing completion of operator training course.

(d) *Records of reviews for site-specific operating manuals.* Include three items:

(1) Names of persons who have reviewed the operating manual.

(2) Date of the initial review.

(3) Dates of subsequent annual reviews.

(e) *Records of when a certified operator is temporarily offsite.* Include two main items:

(1) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(2) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) Time of day that all certified persons are offsite.

(ii) The conditions that cause those people to be offsite.

(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite as soon as practicable.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite as soon as practicable.

(f) *Records of calendar dates.* Include the calendar date on each record.

§ 60.6590 What records must I keep for stack tests?

For stack tests required under § 60.6515, you must keep records of all the following four items:

(a) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in Table 3 to Subpart WWW:

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) Test reports including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of your municipal waste combustors and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

§ 60.6595 What records must I keep for continuously monitored pollutants or parameters?

You must keep records of all the following eight items.

(a) *Records of monitoring data.* Document all the following eight parameters measured using continuous monitoring systems:

(1) All 6-minute average levels of opacity.

(2) All 1-hour average concentrations of sulfur dioxide emissions.

(3) All 1-hour average concentrations of nitrogen oxides emissions.

(4) All 1-hour average concentrations of carbon monoxide emissions.

(5) All 1-hour average load levels of your municipal waste combustor.

(6) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(7) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 1-hour average concentrations of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(8) If you monitor emissions with a CEMS, you must indicate which data are CEMS data during warmup, startup, and shutdown.

(b) *Records of average concentrations.* Document seven parameters:

(1) All 24-hour daily block geometric average concentrations and percent reductions of sulfur dioxide emissions.

(2) All 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(3) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions, as applicable.

(4) All 4-hour block arithmetic average load levels of your municipal waste combustor.

(5) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 24-hour daily arithmetic average concentrations and percent reductions, as appropriate, of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(7) If you elect to use a continuous automated sampling system to monitor mercury or dioxins/furans instead of conducting performance testing, all

integrated 24-hour mercury concentrations (or percent reductions) or all integrated 2-week dioxins/furans concentrations.

(c) *Records of exceedances.* Document all the following three items:

(1) Calendar dates whenever any of the seven pollutant or parameter levels recorded in paragraph (b) of this section or the opacity level recorded in paragraph (a)(1) of this section did not meet the emission limits or operating levels specified in this subpart.

(2) Reasons you exceeded the applicable emission limits or operating levels.

(3) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(d) *Records of minimum data.*

Document three items:

(1) Calendar dates for which you did not collect the minimum amount of data required under §§ 60.6490 and 60.6565.

Record those dates for the following types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) Nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of your municipal waste combustor.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(vi) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance tests, the particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(vii) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, dates and times when the sampling systems were not operating or were not collecting a valid sample.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to obtain the required amount of data.

(e) *Records of exclusions.* Document each time you have excluded data from your calculation of averages for any of the following pollutants or parameters and the reasons the data were excluded:

(1) Sulfur dioxide emissions.

(2) Nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load levels of your municipal waste combustor.

(5) Temperatures of the flue gases at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, or to elect to use continuous automated

sampling systems for dioxins/furans or mercury emissions, instead of conducting performance tests:

- (i) Particulate matter emissions data.
- (ii) Cadmium emissions data.
- (iii) Lead emissions data.
- (iv) Mercury emissions data.
- (v) Hydrogen chloride emissions data.
- (vi) Dioxins/furans emissions data.
- (f) *Records of drift and accuracy.*

Document the results of your daily drift tests and quarterly accuracy determinations according to the following:

(1) For sulfur dioxides, nitrogen oxides, and carbon monoxides, according to Procedure 1 of appendix F of this part. Keep the records for the sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emissions monitoring systems.

(2) If you elect to continuously monitor particulate matter instead of conducting performance testing, according to Procedure 2, appendix F of this part. Keep the records for the particulate matter continuous emissions monitoring systems.

(3) If you elect to continuously monitor cadmium, lead, mercury, or hydrogen chloride instead of conducting performance testing, maintain the results of all quality evaluations, including daily drift tests and periodic accuracy determinations, specified in the approved site-specific performance evaluation test plan or as specified in Procedures 5 and 6 of appendix F of this part, as applicable.

(4) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the results of all quality evaluations specified in the approved site-specific performance evaluation test plan or Procedure 5 of appendix F of this part, as applicable.

(g) *Records of the relationship between oxygen and carbon dioxide.* If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in § 60.6485.

(h) *Records of calendar dates.* Include the calendar date on each record.

(i) *Time system.* All continuous monitoring systems data must be recorded using “local time” for the location where the municipal waste combustor is located, unless the Administrator approves an alternative time system.

(j) *Additional recordkeeping for continuous cadmium, lead, mercury, or hydrogen chloride monitoring systems.* In addition to the requirements of paragraphs (a) through (i), if you elect to install a continuous emission monitoring system for cadmium, lead,

mercury, or hydrogen chloride, you must maintain the following additional records:

(1) All required continuous emission monitoring measurements (including monitoring data recorded during unavoidable continuous emission monitoring system breakdowns and out-of-control periods).

(2) The date and time identifying each period during which the continuous emission monitoring system was inoperative except for zero (low-level) and high-level checks.

(3) The date and time identifying each period during which the continuous emission monitoring system was out of control, as defined in § 60.6540.

(4) The date and time of commencement and completion of each period of excess emissions and parameter monitoring exceedances that occurs during warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(5) The date and time of commencement and completion of each time period of excess emissions and parameter monitoring exceedances, that occurs during periods other than warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(6) The nature and cause of any malfunction (if known).

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions.

(8) The nature of the repairs or adjustments to the continuous emission monitoring system that was inoperative or out of control.

(9) All procedures that are part of a quality control program developed and implemented for the continuous emission monitoring system.

(10) When more than one continuous emission monitoring system is used to measure the emissions from one municipal waste combustor (e.g., multiple breechings, multiple outlets), record the results as required for each continuous emission monitoring system.

(k) *Additional recordkeeping for continuous automated sampling systems.* If you elect to install a continuous automated sampling system for dioxins/furans or mercury, you must maintain the following additional records:

(1) All required 24-hour integrated mercury concentration (or percent reduction) or 2-week integrated dioxins/furans concentration data (including any data obtained during unavoidable system breakdowns and out-of-control periods).

(2) The date and time identifying each period during which the continuous automated sampling system was inoperative.

(3) The date and time identifying each period during which the continuous automated sampling system was out of control.

(4) The date and time of commencement and completion of each period of excess emissions and parameter monitoring exceedances that occurs during warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(5) The date and time of commencement and completion of each time period of excess emissions and parameter monitoring exceedances that occurs during periods other than warmups, startups, shutdowns, and malfunctions of the municipal waste combustor.

(6) The nature and cause of any malfunction (if known).

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions.

(8) The nature of the repairs or adjustments to the continuous automated sampling system that was inoperative or out of control.

(9) All procedures that are part of a quality control program developed and implemented for the continuous automated sampling system.

(10) When more than one continuous automated sampling system is used to measure the emissions from one municipal waste combustor (e.g., multiple breechings, multiple outlets), record the results as required for each system.

§ 60.6600 What records must I keep for municipal waste combustors that use activated carbon?

For municipal waste combustors that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of all of the following five items:

(a) *Records of average carbon feed rate.* Document five items:

(1) Average carbon feed rate in kilograms (or pounds) per hour during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(2) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(3) Average carbon feed rate in kilograms (or pounds) per hour

estimated for each hour of operation. Include supporting calculations in the records.

(4) Total carbon usage for each calendar quarter as estimated in § 60.6560(d). Include supporting calculations in the records.

(5) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).

(b) *Records of low carbon feed rates.* Document three items:

(1) The calendar dates when the average carbon feed rate was less than the average hourly carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions.

(2) Reasons for the low carbon feed rates.

(3) Corrective actions you took or are taking to meet the average carbon feed rate requirement.

(c) *Records of carbon injection system operating parameter indicators.* Document three items:

(1) Calendar dates for which the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) recorded are below the level(s) estimated during the performance tests.

(2) Reasons for the occurrences.

(3) Corrective actions you took or are taking to meet the levels estimated during the performance tests.

(d) *Records of exclusions.* Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(e) *Records of calendar dates.* Include the calendar date on each record.

Model Rule—Reporting

§ 60.6605 What reports must I submit and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this subpart.

(b) Within 60 days after the date of completing each performance test or continuous emissions monitoring systems (CEMS) performance evaluation that includes a relative accuracy test audit (RATA), you must submit the results following the procedures specified in paragraph (e) of this section. Data collected using test methods and performance evaluations of CEMS measuring RATA pollutants that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website

(<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test or performance evaluation must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods and performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test or performance evaluation must be included as an attachment in the ERT or an alternate electronic file.

(c) For the semiannual and annual reports specified under paragraph (a) of this section, beginning on March 10, 2027 or once the report template for this subpart has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for one year, whichever date is later, submit all subsequent reports using the appropriate electronic report template on the CEDRI website for this subpart and following the procedure specified in paragraph (e) of this section. The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(d) If you are required to submit notifications or reports following the procedure specified in this paragraph (d), you must submit notifications or reports to the EPA via the CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (d)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed

except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (d).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqps_cbi@epa.gov, and as described above, should include clear CBI markings. ERT files should be flagged to the attention of the Branch Manager, Measurement Strategies Branch; all other files should be flagged to the attention of the Large Municipal Waste Combustor Sector Lead. 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 oaqps_cbi@epa.gov to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Branch Manager, Measurement Strategies Branch, and all other files should be sent to the attention of the Large Municipal Waste Combustor Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (e)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(f) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (f)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

(g) Keep a copy of all reports required by §§ 60.6615, 60.6625, and 60.6640 onsite for 5 years.

(h) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride or to use continuous automated sampling systems for dioxins/furans or mercury emissions instead of conducting performance tests, notify the Administrator one month prior to starting or stopping use of the particulate matter, cadmium, lead, mercury, hydrogen chloride, and dioxins/furans continuous emission monitoring systems or continuous automated sampling systems.

(i) If you elect to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, or you elect to install a continuous automated sampling system for dioxins/furans or mercury, you must also submit to EPA for approval, the site-specific monitoring plan, including the site-specific performance evaluation test plan for the continuous emission monitoring system or the continuous automated sampling system. You must maintain copies of the site-specific monitoring plan on record for the life of the municipal waste combustor to be made available for inspection, upon request, by the Administrator. If the site-specific monitoring plan is revised and approved, you must maintain the previous (i.e., superseded) versions of the plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

§ 60.6610 What are the appropriate units of measurement for reporting my data?

See Tables 2 and 3 to Subpart WWW for appropriate units of measurement.

§ 60.6615 When must I submit the initial performance test report?

As specified in § 60.8(a), submit your initial report by 180 days after your final compliance date.

§ 60.6620 What must I include in my initial performance test report?

You must include seven items:

(a) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following pollutants or parameters as recorded in accordance with § 60.6595(b).

(1) The 24-hour daily block geometric average concentration or percent reduction of sulfur dioxide emissions.

(2) The 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(3) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions, as applicable.

(4) The 4-hour block arithmetic average load level of your municipal waste combustor.

(5) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing, all 1-hour average concentrations of particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions.

(7) If you monitor emissions with a CEMS, you must indicate which data are CEMS data during warmup, startup, and shutdown.

(b) The results of the initial performance stack tests for eight pollutants or parameters (use appropriate units as specified in Table 3 to Subpart WWW):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(c) The test report that documents the initial stack tests including supporting calculations.

(d) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in appendix

B of this part in conducting the evaluation.

(e) The maximum demonstrated load of your municipal waste combustor and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(f) If your municipal waste combustor uses activated carbon to control dioxins/furans or mercury emissions, the average carbon mass feed rates that you recorded during the stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in § 60.6660(a)(1) and (2).

(g) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 60.6485.

§ 60.6625 When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. If you have an operating permit for any unit under title V of the CAA you must submit semiannual reports. Parts 70 and 71 of this chapter contain program requirements for permits.

§ 60.6630 What must I include in my annual report?

Summarize data collected for all pollutants and parameters regulated under this subpart. Your summary must include twelve items:

(a) A list of the results achieved during the annual stack test, using appropriate units, for eight pollutants, as recorded under § 60.6590(a):

- (1) Dioxins/furans.
- (2) Cadmium.
- (3) Lead
- (4) Mercury.
- (5) Particulate Matter.
- (6) Opacity.
- (7) Hydrogen chloride.
- (8) Fugitive ash.

(b) List of the highest average levels recorded, in the appropriate units, for the following pollutants or parameters:

- (1) Sulfur dioxide emissions.
- (2) Nitrogen oxides emissions.
- (3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or

dioxins/furans emissions instead of conducting performance testing:

- (i) Particulate matter emissions.
- (ii) Cadmium emissions.
- (iii) Lead emissions.
- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(c) For continuously monitored pollutants identified in paragraphs (b)(1) through (3) and (b)(6) of this section, a list of the block averages recorded during all operations for the reporting year, identifying measurements recorded during periods of warmup, startup, and shutdown as defined in this subpart.

(d) The highest 6-minute opacity level measured. Base the value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§ 60.6595(a)(1)).

(e) The total number of hours per calendar quarter and hours per calendar year that you did not obtain valid data for the following pollutants or parameters. For each continuously monitored pollutant or parameter, the hours of valid emissions data per calendar quarter and per calendar year expressed as a percent of the hours per calendar quarter or year that the municipal waste combustor was operating and combusting municipal solid waste. Include data on:

- (1) Sulfur dioxide emissions.
- (2) Nitrogen oxides emissions.
- (3) Carbon monoxide emissions.
- (4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or dioxins/furans emissions instead of conducting performance testing:

- (i) Particulate matter emissions.
- (ii) Cadmium emissions.
- (iii) Lead emissions.
- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(7) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the total number of hours per calendar quarter and hours per calendar year that the sampling systems were not operating or were not collecting a valid sample. Include the number of hours during which the continuous automated sampling system was operating and collecting a valid sample as a percent of hours per calendar quarter or year that the municipal waste combustor was operating and combusting municipal solid waste.

(f) The total number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for the following pollutants or parameters:

- (1) Sulfur dioxide emissions.
- (2) Nitrogen oxides emissions.
- (3) Carbon monoxide emissions.
- (4) Load level of the municipal waste combustor.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, or dioxins/furans emissions instead of conducting performance testing:

- (i) Particulate matter emissions.
- (ii) Cadmium emissions.
- (iii) Lead emissions.
- (iv) Mercury emissions.
- (v) Hydrogen chloride emissions.
- (vi) Dioxins/furans emissions.

(7) If you elect to use continuous automated sampling systems for dioxins/furans or mercury, the total number of hours that the data for mercury and dioxins/furans were excluded from the calculation of average emission concentrations or parameters.

(g) A summary of the data in paragraphs (a) through (g), excluding (c), of this section from the year preceding the reporting year which gives the Administrator a summary of the performance of the municipal waste combustor over a 2-year period.

(h) A summary of any emission or parameter level, including the information specified in paragraphs (a) through (f) of this section, that did not meet the limits specified in this subpart.

(i) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if you are eligible for alternative scheduling (§ 60.6535(a) or (b)).

(j) A notice of your intent to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels to similarly designed and equipped units on site. (§ 60.6535(c)).

(k) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 60.6485.

(l) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§ 60.6635 What must I do if I am out of compliance with the requirements of this subpart?

You must submit a semiannual report on any recorded emission or parameter

level that does not meet the requirements specified in this subpart.

§ 60.6640 If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§ 60.6645 What must I include in the semiannual out-of-compliance reports?

You must include all of the following three items in the semiannual report:

(a) For any of the pollutants or parameters listed in paragraphs (a)(1)–(8) of this section that exceeded the limits specified in this subpart, include the calendar date they exceeded the limits, the reasons for exceeding the limits, and your corrective actions. You must also include the averaged and recorded data for that date:

- (1) Concentration of sulfur dioxide emissions.
- (2) Concentration of nitrogen oxides emissions.
- (3) Concentration of carbon monoxide emissions.
- (4) Load level of your municipal waste combustor.
- (5) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.
- (6) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.
- (7) If you elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing:
 - (i) Concentration of particulate matter emissions.
 - (ii) Concentration of cadmium emissions.
 - (iii) Concentration of lead emissions.
 - (iv) Concentration of mercury emissions.
 - (v) Concentration of hydrogen chloride emissions.
- (8) If you elect to use a continuous automated sampling system to monitor mercury or dioxins/furans instead of conducting performance testing, the integrated 24-hour mercury concentrations (or percent reductions) or the integrated 2-week dioxins/furans concentration.

(b) If the results of your annual stack tests (as recorded in § 60.6590(a)) show emissions above the limits specified in Table 3 to Subpart WWW as

applicable for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a copy of the test report that documents the emission levels and your corrective actions. The semiannual report shall contain a statement indicating that pollutant levels were exceeded during the performance test and list the pollutants whose limits were exceeded and a copy of the performance test is no longer required.

(c) For municipal waste combustors that apply activated carbon to control dioxins/furans or mercury emissions, include documentation of all dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (*e.g.*, screw feeder speed) are below the levels established during the most recent mercury and dioxins/furans stack test (as specified in § 60.6600(a)(1)). Include four items:

- (1) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation.
- (2) Reasons for occurrences of low carbon feed rates.
- (3) The corrective actions you have taken to meet the carbon feed rate requirement.
- (4) The calendar date.
- (d) If you elect to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride, or you elect to install a continuous automated sampling system for dioxins/furans or mercury, submit information concerning all out-of-control periods for each continuous emission monitoring system or each continuous automated sampling system, including start and end dates and hours and descriptions of corrective actions taken.

§ 60.6650 Can reporting dates be changed?

(a) If the Administrator agrees, you may change the semiannual or annual reporting dates.

(b) See § 60.19(c) for procedures to seek approval to change your reporting date.

Model Rule—Air Curtain Incinerators That Burn 100 Percent Wood Waste, Clean Lumber, and Yard Waste

§ 60.6655 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

§ 60.6660 What is yard waste?

Yard waste is grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(a) Construction, renovation, and demolition wastes that are exempt from the definition of “municipal solid waste” in § 60.6685.

(b) Clean wood that is exempt from the definition of “municipal solid waste” in § 60.6685.

§ 60.6665 What are the emission limits for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

If your air curtain incinerator with a capacity to combust greater than 250 tons per day of municipal solid waste combusts a fuel feed stream of 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste, and no other municipal solid waste materials, you must only meet the emission limits in this section.

(a) By 180 days after your final compliance date, you must meet two limits:

(1) The opacity limit is 10 percent (6-minute average) except as provided in paragraph (a)(2) of this section.

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Reserved

§ 60.6670 How must I monitor opacity for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

(a) Use the procedures specified in Table 5 to Subpart WWW to determine compliance with the opacity limit for air curtain incinerators under § 60.6665.

(b) Conduct an initial test for opacity as specified in § 60.8 of subpart A of this part.

(c) After the initial test for opacity, conduct annual tests (no less than 9 calendar months and no more than 15 calendar months following the previous test). You must complete five performance tests in each 5-year calendar period.

§ 60.6675 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood waste, clean lumber, and/or yard waste?

(a) Provide a notice of construction that includes four items:

(1) Your intent to construct the air curtain incinerator.

(2) Your planned initial startup date.

(3) Types of fuels you plan to combust in your air curtain incinerator.

(4) The capacity of your incinerator, including supporting capacity calculations, as specified in § 60.6570.

(b) Keep records of results of the initial opacity performance test and all subsequent opacity performance tests onsite in either paper copy or electronic format unless the Administrator approves another format.

(c) Keep all records for each incinerator for at least 5 years.

(d) Make all records available for submittal to the Administrator or for onsite review by an inspector.

(e) Submit the results (each 6-minute average) of the initial opacity performance test and all subsequent opacity performance tests by February 1 of the year following the year of the opacity emission test.

(f) Submit reports in either paper copy or electronic format on or before the applicable submittal date.

(g) If the Administrator agrees, you may change the annual reporting dates (see § 60.19(c)).

(h) Keep a copy of all reports onsite for a period of 5 years.

Equations

§ 60.6680 What equations must I use?

(a) *Concentration correction to 7 percent oxygen.* Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

Equation 1 to Paragraph (a)

$$C_{7\%} = C_{unc} * (13.9 / (20.9 - C_{O_2})) \text{ (Eq. 1)}$$

Where:

$C_{7\%}$ = concentration corrected to 7 percent oxygen.

C_{unc} = uncorrected pollutant concentration.

C_{O_2} = concentration of oxygen (percent).

(b) *Quarterly carbon usage.* If you use activated carbon to comply with the dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 2 of this section for facility basis or equation 3 of this section for unit basis:

(1) Plant basis.

Equation 2 to Paragraph (b)(1)

$$C = \sum_{i=1}^n f_i * h_i \text{ (Eq. 2)}$$

Where:

C = required quarterly carbon usage for the facility in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustor in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustor was in operation during the calendar quarter (hours).

n = number of municipal waste combustors, i, located at your plant.

(2) Unit basis.

Equation 3 to Paragraph (b)(2)

$$C = f * h \text{ (Eq. 3)}$$

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).

f = required carbon feed rate for the municipal waste combustor in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

H = number of hours the municipal waste combustor was in operation during the calendar quarter (hours).

(c) *Percent Reduction.* If you opt to comply with the alternative percent reduction standards for hydrogen chloride, mercury or sulfur dioxide, use the following equation to calculate the percent reduction:

Equation 4 to Paragraph (c)

$$\%P_{(HCl, Hg, SO_2)} = (E_i - E_o) / E_i * 100 \text{ (Eq. 4)}$$

Where:

$\%P_{(HCl, Hg, SO_2)}$ = percent reduction of pollutant being measured, either hydrogen chloride, mercury or sulfur dioxide

E_i = emission concentration of measured pollutant at inlet to the applicable control device, corrected to 7 percent oxygen (dry basis)

E_o = emission concentration of measured pollutant at the outlet of the applicable control device, corrected to 7 percent oxygen (dry basis)

Definitions

§ 60.6685 What definitions apply to this subpart?

Terms used but not defined in this section are defined in the CAA and in subparts A and Ba of this part.

Administrator means:

(1) For approved and effective state plans, the Director of the state air pollution control agency, or employee of the state air pollution control agency that is delegated the authority to perform the specified task;

(2) For federal plans, the Administrator of the EPA, an employee of the EPA, the Director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task; and

(3) For NSPS, the Administrator of the EPA, an employee of the EPA, the Director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

Batch municipal waste combustor means a municipal waste combustor designed so it cannot combust

municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

Bubbling fluidized bed combustor means a fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

Calendar quarter means a consecutive 3-month period (nonoverlapping) beginning on January 1, April 1, July 1, and October 1.

Calendar year means the period including 365 days starting January 1 and ending on December 31.

CEMS means continuous emissions monitoring system.

CEMS data during warmup, startup, and shutdown means CEMS data collected during periods of operation defined within this subpart as warmup, startup or shutdown.

Chief facility operator means the person in direct charge and control of the operation of a municipal waste combustor and who is responsible for

daily onsite supervision, technical direction, management, and overall performance of the facility.

Circulating fluidized bed combustor means a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

Clean wood means untreated wood or untreated wood products including clean or untreated lumber (as defined in this subpart), tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this section, wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or construction, renovation, and demolition wastes (including but not limited to railroad ties and telephone poles), which are exempt from the definition of municipal solid waste in this section.

Cofired combustor means a unit combusting municipal solid waste with nonmunicipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit limiting the unit to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste as measured on a calendar quarter basis.

Continuous automated sampling system means the total equipment and procedures for automated sample collection and sample recovery/analysis to determine a pollutant concentration or emission rate by collecting a single or multiple integrated sample(s) of the pollutant (or diluent gas) for subsequent on- or off-site analysis; integrated sample(s) collected are representative of the emissions for the sample time as specified by the applicable requirement.

Continuous emission monitoring system means a monitoring system that continuously measures the emissions of a pollutant from an affected facility.

Dioxins/furans mean tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans. For the purposes of this subpart, dioxins/furans emission limits are expressed on a total mass basis.

Digital camera opacity technique conditions mean the following four conditions that must be followed if ASTM D7520-16, "Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere" (incorporated by reference, see § 60.17), is used as an alternative to EPA Method 9:

(1) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(2) You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520-16.

(3) You must follow the record keeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(4) You or the DCOT vendor must have a minimum of 4 independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

EPA means the Administrator of the U.S. EPA or employee of the U.S. EPA who is delegated to perform the specified task.

Federally enforceable means all limitations and conditions that are enforceable by EPA including the requirements of 40 CFR part 60, 40 CFR part 61, and 40 CFR part 63, requirements within any applicable state implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.165 and 40 CFR 51.166.

First half of the calendar year means the period starting on January 1 and ending on June 30 in any year.

Four-hour block average or 4-hour block average means the average of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over 4-hour periods from:

- (1) 12:00 midnight to 4:00 a.m.
- (2) 4:00 a.m. to 8:00 a.m.
- (3) 8:00 a.m. to 12:00 noon.
- (4) 12:00 noon to 4:00 p.m.
- (5) 4:00 p.m. to 8:00 p.m.
- (6) 8:00 p.m. to 12:00 midnight.

Mass burn refractory municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes combustors with a cylindrical rotary refractory wall furnace.

Mass burn rotary waterwall municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a cylindrical rotary waterwall furnace or on a tumbling-tile grate.

Mass burn waterwall municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a waterwall furnace.

Materials separation plan means a plan that identifies both a goal and an approach for separating certain components of municipal solid waste for a given service area in order to make the separated materials available for recycling. A materials separation plan may include elements such as dropoff facilities, buy-back or deposit-return incentives, curbside pickup programs, or centralized mechanical separation systems. A materials separation plan may include different goals or approaches for different subareas in the service area, and may include no materials separation activities for certain subareas or, if warranted, an entire service area.

Maximum demonstrated municipal waste combustor load means the highest 4-hour arithmetic average municipal waste combustor load achieved during four consecutive hours during the most recent dioxins/furans performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under § 60.6450.

Maximum demonstrated particulate matter control device temperature means the highest 4-hour arithmetic average flue gas temperature measured at the particulate matter control device inlet during four consecutive hours during the most recent dioxins/furans performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under § 60.6450.

Modification or modified municipal waste combustor means a municipal waste combustor you have changed after September 10, 2026 and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of construction and installation the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs.

(2) Any physical change in the municipal waste combustor or change in the method of operating the municipal waste combustor that increases the amount of any air pollutant emitted by the unit for which standards have been established under section 129 or section

111 of the CAA. Increases in the amount of any air pollutant emitted by the municipal waste combustor are determined when the municipal waste combustor operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be considered in the determination.

Modular excess-air municipal waste combustor means a combustor that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular starved-air municipal waste combustor means a combustor that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Municipal solid waste or municipal-type solid waste or MSW means household, commercial/retail, or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff). Household, commercial/retail, and institutional wastes include:

- (1) Yard waste;
- (2) Refuse-derived fuel; and
- (3) Motor vehicle maintenance materials limited to vehicle batteries and tires except as specified in § 60.6305(d).

Municipal waste combustor, or MWC, means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (*i.e.*, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustors:

(1) Municipal waste combustors do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under Applicability (§ 60.6305(h) and (i)). Municipal waste combustors also do not include cement kilns firing municipal solid waste as specified under Applicability (§ 60.6305(j)). Municipal waste combustors also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal waste combustor are defined as follows. The municipal waste combustor includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(i) The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber.

(ii) The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustor water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(3) The municipal waste combustor does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

Municipal waste combustor capacity means the maximum charging rate of a municipal waste combustor expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under § 60.6570. Section 60.6570 includes procedures for determining municipal waste combustor

capacity for continuous and batch feed municipal waste combustors.

Municipal waste combustor load means the steam load of the municipal waste combustor measured as specified in § 60.6550.

Particulate matter means total particulate matter emitted from municipal waste combustors as measured using EPA Reference Method 5 (see § 60.6530).

Plastics/rubber recycling unit means an integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). The feed materials are processed into a chemical plant feedstock or petroleum refinery feedstock, where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The following three criteria further define a plastics/rubber recycling unit:

(1) Each calendar quarter, the combined weight of the chemical plant feedstock and petroleum refinery feedstock that a plastics/rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that the plastics/rubber recycling unit processes.

(2) The plastics, rubber, or rubber tires fed to the plastics/rubber recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from MSW or industrial solid waste. The feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(3) The plastics, rubber, and rubber tires fed to the plastics/rubber recycling unit may contain incidental contaminants (*e.g.*, paper labels on plastic bottles, metal rings on plastic bottle caps).

Pulverized coal/refuse-derived fuel mixed fuel-fired combustor means a combustor that fires coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is fired in suspension. This includes both conventional pulverized coal and micropulverized coal.

Pyrolysis/combustion unit means a unit that produces gases, liquids, or solids by heating municipal solid waste. The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

Reconstruction means rebuilding a municipal waste combustor for which the reconstruction commenced after September 10, 2026 and the cumulative

costs of the construction over the life of the unit exceed 50 percent of the original cost of construction and installation of the unit (not including any cost of land purchased in connection with such construction or installation) updated to current costs (current dollars).

Refractory unit or refractory wall furnace means a combustion unit that has no energy recovery (e.g., via a waterwall) in the furnace (i.e., radiant heat transfer section) of the combustor.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Refuse-derived fuel stoker means a steam generating unit that combusts refuse-derived fuel in a semisuspension firing mode using air-fed distributors.

Same location means the same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (e.g., a public utility district or regional authority for waste disposal).

Second half of the calendar year means the period starting July 1 and ending on December 31 in any year.

Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion means a combustion unit that was converted from a wet refuse-derived fuel process to a dry refuse-derived fuel process, and because of constraints in the design of the system, includes a low furnace height

(less than 60 feet between the grate and the roof) and a high waste capacity-to-undergrate air zone ratio (greater than 300 tons of waste per day (tpd) fuel per each undergrate air zone).

Shift supervisor means the person who is in direct charge and control of operating a municipal waste combustor and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustor during an assigned shift.

Shutdown means the period of time following cessation of charging waste to the combustion grate prior to entering a period where the municipal waste combustor is not operating. Shutdown may be claimed for up to three hours of operation per occurrence.

Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor means a combustor that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable means a spreader stoker type combustor with a fixed floor grate design that typically fires 100 percent refuse-derived fuel but is equipped to burn 100 percent coal instead of refuse-derived fuel to fulfill 100 percent steam or energy demand.

Standard conditions means a temperature of 20 °C and a pressure of 101.3 kilopascals.

Startup means the period of time after warmup when waste is introduced to the combustion grate but prior to steady state operation. Startup may be claimed for up to three hours of operation per occurrence.

Total mass dioxins/furans or total mass means the total mass of tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans as determined using EPA Reference Method 23 and the procedures specified in § 60.6530.

Tumbling-tile means a grate tile hinged at one end and attached to a ram at the other end. When the ram extends, the grate tile rotates around the hinged end.

Twenty-four hour daily average or 24-hour daily average means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the affected facility operates and combusts municipal solid waste measured over a 24-hour period between 12:00 midnight and the following midnight.

Untreated lumber or clean lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or “pressure-treated”. Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

Warmup means the period of time during the first hours of a municipal waste combustor operation from a cold start until waste is fed to the combustor and has no time constraints. No waste is introduced to the combustion grate during warmup.

Waterwall furnace means a combustion unit having energy (heat) recovery in the furnace (i.e., radiant heat transfer section) of the combustor.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of “municipal solid waste” in this section.

(2) Clean wood that is exempt from the definition of “municipal solid waste” in this section.

TABLE 1 TO SUBPART WWW OF PART 60—MODEL RULE—COMPLIANCE SCHEDULES AND INCREMENTS OF PROGRESS

Affected units	Increment 1 (submit final control plan)	Increment 2 (award contracts)	Increment 3 (begin onsite construction)	Increment 4 (complete onsite construction)	Increment 5 (final compliance)
1. All municipal waste combustors. ^a	(Dates to be specified in state plan).	(Dates to be specified in state plan).	(Dates to be specified in state plan).	(Dates to be specified in state plan).	(Dates to be specified in state plan). ^b

^a Plant specific schedules can be used at the discretion of the state.

^b The date can be no later than 3 years after the effective date of state plan approval or March 10, 2031.

TABLE 2 TO SUBPART WWW—MUNICIPAL WASTE COMBUSTOR CARBON MONOXIDE GUIDELINES
[Parts per million by volume]

Municipal waste combustor technology	The following emission limits and averaging times apply . . .	
	Carbon monoxide emission limit (parts per million by volume) ^a	Averaging time (hours) ^b
Mass burn waterwall	100	4
Mass burn refractory	100	4
Mass burn rotary refractory	110	24
Mass burn rotary waterwall	110	24
Modular starved air	50	4
Modular excess air	50	4
Refuse-derived fuel stoker	110	24
Fluidized bed, mixed fuel (wood/refuse-derived fuel)	110	24
Bubbling fluidized bed combustor	100	4
Circulating fluidized bed combustor	100	4
Pulverized coal/refuse-derived fuel mixed fuel-fired combustor	110	4
Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor	110	24
Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion	250	^c 24
Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable	250	^c 24

^a Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen (dry basis). Calculated as an arithmetic average. CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are used as measured. The averaging times are specified in greater detail in § 60.6495(b).

^b Averaging times are 4-hour or 24-hour block arithmetic averages.

^c 24-hour block average, geometric mean.

TABLE 3 TO SUBPART WWW OF PART 60—MODEL RULE—EMISSION LIMITS FOR EXISTING LARGE MUNICIPAL WASTE COMBUSTORS

For the air pollutant . . .	For this combustor type . . .	You must meet this emission limit, corrected to 7 percent oxygen ^a . . .
Particulate matter	All	20 mg/dscm.
Opacity	All	10 percent opacity (6-minute block average).
Cadmium	All	10 ug/dscm.
Lead	All	68 ug/dscm.
Mercury	All	50 ug/dscm or 85 percent reduction by weight.
Sulfur dioxide	All	22 parts per million by volume dry basis or 75 percent reduction by weight or volume (daily 24-hr geometric average).
Nitrogen oxide ^b	Mass burn waterwall	205 parts per million by volume dry basis (daily 24-hr arithmetic average).
	Mass burn rotary	150 parts per million by volume dry basis (daily 24-hr arithmetic average).
	Refuse-derived fuel stoker	160 parts per million by volume dry basis (daily 24-hr arithmetic average).
	Refuse-derived fuel spreader stoker and semi-suspension.	160 parts per million by volume dry basis (daily 24-hr arithmetic average).
	Refuse-derived fuel fluidized bed	180 parts per million by volume dry basis (daily 24-hr arithmetic average).
Hydrogen chloride	All	10 parts per million by volume dry basis or 96 percent reduction by weight or volume.
Dioxins/furans	All	14 nanograms per dry standard cubic meter (total mass).

^a CEMS data during warmup, startup, and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen and are used as measured.

^b Existing mass burn waterwall units equipped with air-to-air heat exchanger flue gas reheat in advance of a selective catalytic reduction control device are subject to a 50 parts per million by volume dry basis emission limit.

TABLE 4 TO SUBPART WWWW OF PART 60—REQUIREMENTS FOR CONTINUOUS EMISSION MONITORING SYSTEMS (CEMS)

For the following pollutants	Use the following span values for your CEMS	Use the following performance specifications for your CEMS	During each relative accuracy test run, use the following methods to collect concurrent data
1. Particulate Matter .....	.....	For operation and correlation test, P.S. 11 in appendix B of this part and procedure 2 of appendix F to this part. For quarterly accuracy determinations, daily calibration drift tests, and each response correlation audit or relative response audit, procedure 2 of appendix F to this part.	Follow the test methods in Table 5 to Subpart WWWW.
2. Nitrogen Oxides	Control device outlet: 125 percent of the maximum estimated hourly nitrogen oxides emissions of the municipal waste combustor.	For operation, P.S. 2 in appendix B of this part and procedure 1 in appendix F of this part. For relative accuracy audit, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 7, 7A, 7C, 7D, or 7E in appendix A-4 to part 60 of this chapter.
3. Sulfur Dioxide	Control device outlet: 50 percent of the maximum estimated hourly sulfur dioxide emissions of the municipal waste combustor.	For operation, P.S. 2 in appendix B of this part. For relative accuracy audit, P.S. 2 in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 6, 6A, or 6C, in appendix A-4 to part 60 of this chapter.
4. Carbon Monoxide	125 percent of the maximum estimated hourly carbon with monoxide emissions of the municipal waste combustor.	For operation, P.S. 4A in appendix B of this part and procedure 1 of appendix F of this part. For relative accuracy audit, P.S. 4A in appendix B of this part and procedure 1 of appendix F of this part. For quarterly accuracy determinations and daily calibration drift tests, procedure 1 in appendix F of this part.	Method 10, 10A, or 10B in appendix A-4 to part 60 of this chapter.
5. Oxygen or Carbon Dioxide.	25 percent oxygen or 20 percent carbon dioxide.	P.S. 3 in appendix B of this part	Method 3A or 3B in appendix A-2 to part 60 of this chapter, or, as an alternative for oxygen or carbon dioxide correction, the manual method portion of ASME PTC-19-10-1981—part 10.
6. Mercury	Follow the approved site-specific monitoring plan.	For operation, P.S. 12A in appendix B of this part and procedure 5 of appendix F of this part or the approved site-specific monitoring plan. For relative accuracy audit, daily calibration, weekly system integrity check, quarterly audit, procedure 5 of appendix F of this part.	Follow the test methods in Table 5 to Subpart WWWW.
7. Hydrogen chloride	Follow the approved site-specific monitoring plan.	For operation, P.S. 18 in appendix B of this part and procedure 6 of appendix F of this part or the approved site-specific monitoring plan. For relative accuracy audit, daily calibration, quarterly audit, and other applicable quality assurance/quality control checks procedure 6 of appendix F of this part.	Follow the test methods in Table 5 to Subpart WWWW, except you may also use Methods 320 or 321 of appendix A to part 63.
8. Cadmium or Lead	Follow the approved site-specific monitoring plan.	For operation, the approved site-specific monitoring plan.	Follow the test methods in Table 5 to Subpart WWWW.

TABLE 5 TO SUBPART WWW—PERFORMANCE TEST REQUIREMENTS FOR COMPLIANCE WITH EMISSIONS LIMITS UNDER § 60.6450

To determine compliance with the . . .	You must conduct a performance test to . . .	Using . . .
Particulate matter emission limits.	1. Select sampling ports location and the number of traverse points . . . 2. Determine oxygen and carbon dioxide concentrations of the stack gas . . . 3. Measure the particulate matter emission concentration to determine compliance with the particulate matter emission limit to part 60 of this chapter . . .	Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10. Method 5 in appendix A–3 to part 60 of this chapter. Collect a minimum sample volume of 1.7 cubic meters. The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no greater than 160 °C. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 5 run. Method 9 of appendix A–4 of part 60 to this chapter, except as provided under § 60.11(e) of subpart A of this part, or as an alternative ASTM D7520–16 provided the digital camera opacity technique conditions, as defined in this subpart, are met.
Opacity emission limits	Determine compliance with the opacity limit in Table 3 to Subpart WWW . . .	Method 1 in appendix A–1 to part 60 of this chapter.
Cadmium or lead emission limits.	1. Select sampling ports location and the number of traverse points. 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis . . . 3. Measure the cadmium or lead emission concentration to determine compliance with the emission limits . . .	Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10. Method 29 in appendix A–8 to part 60 of this chapter. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 29 test run for cadmium and lead required.
Mercury emission limits	1. Select sampling ports location and the number of traverse points . . . 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis . . . 3. Measure the mercury emission concentration to determine compliance with the emission limits . . .	Method 1 in appendix A–1 to part 60 of this chapter. Method 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative the manual method portion of ASME PTC–19–10–1981—part 10. Method 29 in appendix A–8 to part 60 of this chapter or as an alternative ASTM D6784–24. Collect a minimum sample volume of 1.7 cubic meters. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 29 test run for mercury required.
Sulfur dioxide emission limits	Calculate the 24-hr daily geometric average sulfur dioxide emission concentration . . .	Method 19, section 12.4.3, in appendix A–7 to part 60 of this chapter.
Hydrogen chloride emission limits.	Measure the hydrogen chloride emission concentration . . .	Method 26 or 26A in appendix A–8 of part 60 to this chapter, as applicable. The minimum sampling time shall be 1 hour. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 26 or 26A test run for hydrogen chloride.
Dioxins/furans emission limits ...	1. Select sampling ports location and the number of traverse points . . . 2. Determine oxygen and carbon dioxide concentrations of the stack gas for flue gas analysis . . . 3. Measure the dioxins/furans emission concentration to determine compliance with the emission limits . . .	Method 3, 3A or 3B in appendix A–2 to part 60 of this chapter, or as an alternative ASME PTC–19–10–1981—part 10. Method 23 in appendix A–7 to part 60 of this chapter. The minimum sampling time shall be 4 hours. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 23 test run for dioxins/furans.
Nitrogen oxides emission limits	Determine the daily arithmetic average nitrogen oxides emission concentration.	Method 19, section 12.4.1, in appendix A–7 to part 60 of this chapter.
Fugitive ash emission limits	Measure fugitive ash emissions . . .	Method 22 in appendix A–7 to part 60 of this chapter. The minimum observation time shall be a series of three 1-hour observations. The observation period shall include times when the facility is transferring ash from the municipal waste combustor to the area where ash is stored or loaded into containers or trucks.
Opacity limit for air curtain incinerators under § 60.6665.	Determine compliance with the opacity limit in § 60.6665.	Method 9 of appendix A–4 of part 60 to this chapter, or as an alternative ASTM D7520–16 provided the digital camera opacity technique conditions, as defined in this subpart, are met.

Reader Aids

Federal Register

Vol. 91, No. 46

Tuesday, March 10, 2026

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

Other Services

Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: www.govinfo.gov.

Federal Register information and research tools, including Public Inspection List and electronic text are located at: www.federalregister.gov.

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, MARCH

9977-10304	2
10305-10490	3
10491-10744	4
10745-10938	5
10939-11128	6
11129-11440	9
11441-11888	10

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
11014.....11439

Administrative Orders:
Notices
Notice of 2026-03-02.....10937

5 CFR

Proposed Rules:
316.....10904
330.....10904
351.....10904
353.....10904
359.....10904
362.....10904
430.....10904
2429.....10774

7 CFR

760.....11129
915.....11131
944.....11131
1205.....9977
1214.....11135
1215.....11441
1222.....11140
1414.....10491
1430.....11129
Proposed Rules:
6.....11174
923.....11181
932.....11184
981.....11187
1212.....11189

10 CFR

9.....10939
800.....10954
1040.....10954, 10955
1042.....10955
1703.....10305
Proposed Rules:
2.....10450
51.....10450
52.....10450
54.....10450

12 CFR

5.....9977, 10491
27.....10499
265.....10745
611.....10956
614.....10956
620.....10956
626.....10956
628.....10956
630.....10956
Proposed Rules:
Ch. VII.....10343
3.....10202
6.....10202

8.....10202
15.....10202
19.....10202

14 CFR

39.....10309, 10311, 10313,
10503, 10506, 10508, 10510,
10513, 10746, 10956, 10959,
10961, 10965, 11443, 11446
71.....9982, 9983, 10968
97.....10316, 10318
107.....9984
Proposed Rules:
39.....10349, 10522, 11191,
11478, 11480
71.....10013, 10014, 10352,
10979

15 CFR

4.....10748

17 CFR

240.....10320
249.....10320

21 CFR

201.....10749
207.....10749
1308.....9985
1310.....11450

Proposed Rules:

73.....10524
573.....10525

23 CFR

655.....10771

24 CFR

599.....10970

Proposed Rules:

5.....10016
960.....10016
982.....10016
983.....10016

26 CFR

Proposed Rules:

1.....10983, 11003, 11194
301.....11203

28 CFR

68.....9989

Proposed Rules:

77.....10780

29 CFR

Proposed Rules:

2550.....10033

30 CFR

250.....9998

Proposed Rules:

550.....11212

556.....11212	Proposed Rules:	261.....10862	156.....11006
590.....11212	13.....11483	262.....10862	158.....11006
31 CFR	37 CFR	263.....10862	1355.....11017
548.....10002	380.....11458, 11462, 11465,	264.....10862	48 CFR
587.....10003, 10004, 10006,	11468	265.....10862	Proposed Rules:
10007	383.....11471	266.....10862	970.....11495
591.....10008	39 CFR	267.....10862	49 CFR
1010.....11456	Proposed Rules:	271.....10862	40.....10518
Proposed Rules:	Ch. III.....10526	300.....10577	50 CFR
1010.....10034	40 CFR	761.....10862	635.....10696
32 CFR	52.....10339, 11474	41 CFR	648.....11141
145.....10516	60.....11802	101-8.7.....10971	679.....10520, 11750
34 CFR	300.....10516	105-9.....10971	Proposed Rules:
Proposed Rules:	1090.....10008	42 CFR	10.....11019
Ch. II.....10353	Proposed Rules:	Proposed Rules:	18.....11240
600.....11378	52.....10360, 10531, 10545	600.....11006	92.....11267
668.....11378	62.....10556	45 CFR	218.....11618
690.....11378	63.....10559	Proposed Rules:	224.....10580
36 CFR	81.....10545	153.....11006	622.....10360
7.....10334	118.....10787	154.....11006	660.....11022
	260.....10862	155.....11006	

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List February 20, 2026

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly

enacted public laws. To subscribe, go to https://portalguard.gsa.gov/___layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.