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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2025–1369]

RIN 3150–AL55

List of Approved Spent Fuel Storage Casks: TN Americas LLC NUHOMS® EOS Dry Spent Fuel Storage System Certificate of Compliance No. 1042, Amendment No. 5

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of April 13, 2026, for the direct final rule that was published in the **Federal Register** on January 28, 2026. The direct final rule amended the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System listing within the “List of approved spent fuel storage casks” to include Amendment No. 5 to Certificate of Compliance No. 1042.

DATES: *Effective date:* The effective date of April 13, 2026, for the direct final rule published January 28, 2026 (91 FR 3635) is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2025–1369 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2025–1369. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- **NRC’s Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The amendment to Certificate of Compliance No. 1042, the associated change to the technical specification, and the final safety evaluation report are available in ADAMS under Accession No. ML26064A054.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Amy McKenna, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; email: Amy.McKenna@nrc.gov.

SUPPLEMENTARY INFORMATION: On January 28, 2026 (91 FR 3635), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to include Amendment No. 5 to Certificate of Compliance (CoC) No. 1042.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on April 13, 2026. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: March 16, 2026.

For the Nuclear Regulatory Commission.

Araceli Billoch Colon,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–05287 Filed 3–17–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2026–1132; Special Conditions No. 25–887–SC]

Special Conditions: Textron Aviation Inc. (Textron) Model MU–300–10, 400, 400A Airplanes; Rechargeable Lithium Batteries and Battery System Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Model MU–300–10, 400, and 400A airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is an emergency lighting power supply containing rechargeable lithium batteries. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to those established by the existing airworthiness standards.

DATES: This action is effective on Textron on March 18, 2026. Send comments on or before May 4, 2026.

ADDRESSES: Send comments identified by Docket No. FAA–2026–1132 using any of the following methods:

- **Federal eRegulations Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** Fax comments to Docket Operations at 202–493–2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Electrical Systems Unit, AIR-626A, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 S 216th Street, Des Moines, WA 98198-6547; telephone 206-231-3160; email nazih.khaouly@faa.gov.

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received without change to www.regulations.gov, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions

containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On September 5, 2024, Textron applied for a change to Type Certificate No. A16SW for Textron MU-300-10, 400, and 400A airplanes. These airplanes, currently approved under Type Certificate No. A16SW, are twin-engine, transport-category business jets, with a maximum seating capacity for 9 passengers, and a maximum takeoff weight between 15,780 and 16,300 pounds, depending on model.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Textron must show that changes to the Textron MU-300-10, 400, and 400A airplanes, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A16SW or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model MU-300-10, 400, and 400A airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model MU-300-10, 400, and 400A airplanes must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with 14 CFR 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Textron Model MU-300-10, 400, and 400A airplanes will incorporate the following novel or unusual design feature:

An emergency lighting power supply containing rechargeable lithium batteries.

Discussion

Rechargeable lithium batteries and battery systems are considered to be a novel or unusual design feature in transport-category airplanes, with respect to the requirements in § 25.1353. This type of battery has certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on transport-category airplanes. These batteries and battery systems introduce higher energy levels into airplane systems through new chemical compositions in various battery-cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Special Condition 1 requires that each individual cell within a battery and battery system be designed to maintain safe temperatures and pressures. Special Condition 2 addresses these same issues but for the entire battery system.

Special Condition 2 requires that the batteries and battery system be designed to prevent propagation of a thermal event, such as self-sustained, uncontrolled increases in temperature or pressure from one cell to adjacent cells.

Special Conditions 1 and 2 are intended to ensure that the cells and battery system are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special Conditions 3, 7, and 8 are self-explanatory.

Special Condition 4 clarifies that the flammable-fluid fire-protection requirements of § 25.863 apply to rechargeable lithium battery installations. § 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Rechargeable lithium batteries contain electrolyte that is a flammable fluid.

Special Condition 5 requires each rechargeable lithium battery and battery system installation to not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

Special Condition 6 requires each rechargeable lithium battery and battery system installation to have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells. The means of meeting special conditions 5 and 6 may be the same, but they are independent requirements addressing different hazards. Special Condition 5 addresses corrosive fluids and gases, whereas special condition 6 addresses heat.

Special Condition 9 requires rechargeable lithium batteries and battery systems to have “automatic” means, for charge rate and disconnect, due to the fast-acting nature of lithium battery chemical reactions. Manual intervention would not be timely or effective in mitigating the hazards associated with these batteries.

These special conditions apply to all rechargeable lithium batteries and battery system installations in lieu of § 25.1353(b)(1) through (4) at amendment 25–123, or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations will remain in effect for other battery installations on these airplanes.

The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these proposed special conditions are applicable to Textron Model MU–300–10, 400, and 400A airplanes. Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Textron Model MU–300–10, 400, and 400A airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Model MU–300–10, 400, and 400A airplanes.

In lieu of Title 14, Code of Federal Regulations (14 CFR) 25.1353(b)(1) through (4) at amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.
2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure, and automatically control the charge rate of each cell to protect against adverse operating conditions, such as cell imbalance, back charging, overcharging, and overheating.
3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.
4. Meet the requirements of § 25.863.
5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.
6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.
7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.
8. Have a monitoring and warning feature that alerts the flightcrew when its charge state falls below acceptable levels if its function is required for safe operation of the airplane.
9. Have a means to automatically disconnect from its charging source in the event of an over-temperature condition, cell failure or battery failure.

9. Have a means to automatically disconnect from its charging source in the event of an over-temperature condition, cell failure or battery failure.

Note: A battery system consists of the battery, battery charger and any protective, monitoring and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of this special condition, a battery and the battery system is referred to as a battery.

Issued in Fort Worth, Texas, on March 12, 2026.

Jorge R. Castillo,

Manager, Technical Policy Branch, AIR–620, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2026–05264 Filed 3–17–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2025–2409; Special Conditions No. 33–031–SC]

Special Conditions: ZeroAvia, Inc. Model ZA601 Electric Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the ZeroAvia, Inc. (Zero Avia) Model ZA601 electric engines. These engines will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for aircraft engines. This design feature is an electrical system that will power a mechanical rotating shaft to provide propulsion for airplanes which will be certified separately from the engine. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective March 18, 2026.

FOR FURTHER INFORMATION CONTACT:

Mark Bouyer, Engine and Propulsion Section, AIR–625, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 1200 District Ave. Burlington, MA 01803; telephone (781) 238–7755; email Mark.Bouyer@faa.gov.

SUPPLEMENTARY INFORMATION:**Background**

On May 3, 2024, ZeroAvia, applied for a type certificate for its Model ZA601 electric engine. The electric engine consists of an electric motor, stator, inverters/controllers and will operate with low and high-voltage electrical systems. The ZeroAvia ZA601 electric engine will be used in airplanes certificated under 14 CFR part 23 in the normal category, level 3 and higher.

On January 6, 2026, the FAA issued the Notice of Proposed Special Conditions for the ZeroAvia electric engine, which was published in the **Federal Register** on January 8, 2026 (91 FR 633). The FAA inadvertently listed “level 4 and higher” in the Background Section. The FAA has corrected the Final Special Conditions to list “level 3 and higher” for the ZeroAvia ZA601 electric engine that will be used under 14 CFR part 23, in the normal category.

Type Certification Basis

Under the provisions of 14 CFR 21.17, ZeroAvia must show that the Model ZA601 electrical engines meet the applicable provisions of part 33, as amended by amendments 33–1 through 33–36, in effect on the date of application for a type certificate.

If the FAA finds that the applicable airworthiness regulations (e.g., 14 CFR part 33) do not contain adequate or appropriate safety standards for the ZeroAvia Model ZA601 engine because of a novel or unusual design feature, the FAA prescribes special conditions under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the ZeroAvia Model ZA601 engine must comply with the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The ZeroAvia ZA601 electric engine will incorporate the following novel or unusual design feature:

An electric motor, motor controller, and high-voltage electrical system used

as the primary source of propulsion for an airplane.

Discussion

Aircraft engines make use of an energy source to drive mechanical systems that provide propulsion for the aircraft. The technology that the FAA anticipated in the development of 14 CFR part 33 converts oxygen and fuel to generate energy through an internal combustion system for turning shafts attached to propulsion devices such as propellers and ducted fans.

Electric propulsion technology is substantially different from the technology used in previously certificated turbine and reciprocating engines. Therefore, these engines introduce new safety concerns that need to be addressed in the certification basis.

A growing interest within the aviation industry involves electric propulsion technology. As a result, international agencies and industry stakeholders formed Committee F39 under ASTM International, formerly known as American Society for Testing and Materials, to identify the appropriate technical criteria for aircraft engines using electrical technology that has not been previously type certificated for aircraft propulsion systems. ASTM International is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services. ASTM International published ASTM F3338–18, “Standard Specification for Design of Electric Propulsion Units for General Aviation Aircraft,” in December 2018.¹ The FAA used the technical criteria from the ASTM F3338–18, the published Special Conditions No. 33–022–SC for the magniX USA, Inc. Model magni350 and magni650 engines, and information from the ZeroAvia Model ZA601 engine design to develop special conditions that establish an equivalent level of safety to that required by part 33.

Part 33 Was Developed for Gas-Powered Turbine and Reciprocating Engines

Energy can be generated from various sources such as petroleum and natural gas. The turbine and reciprocating aircraft engines certificated under part 33 use aviation fuel for an energy source. The reciprocating and turbine engine technology that was anticipated in the development of part 33 converts oxygen and fuel to energy using an internal combustion system, which

generates heat and mass flow of combustion products for turning shafts that are attached to propulsion devices such as propellers and ducted fans. Part 33 regulations set forth standards for these engines and mitigate potential hazards resulting from failures and malfunctions. The nature, progression, and severity of engine failures are tied closely to the technology that is used in the design and manufacture of aircraft engines. These technologies involve chemical, thermal, and mechanical systems. Therefore, the existing engine regulations in part 33 address certain chemical, thermal, and mechanically induced failures that are specific to air and fuel combustion systems operating with cyclically loaded, high-speed, high-temperature, and highly stressed components.

ZeroAvia’s Electric Engines Are Novel or Unusual

The existing part 33 airworthiness standards for aircraft engines date back to 1965. As discussed in the previous paragraphs, these airworthiness standards are based on fuel-burning reciprocating and turbine engine technology. The ZeroAvia Model ZA601 engines are neither turbine nor reciprocating engines. These engines have a novel or unusual design feature, which is the use of electrical sources of energy instead of fuel to drive the mechanical systems that provide propulsion for aircraft. The ZeroAvia aircraft engine is subject to operating conditions produced by chemical, thermal, and mechanical components working together, but the operating conditions are unlike those observed in internal combustion engine systems. Therefore, part 33 does not contain adequate or appropriate safety standards for the ZeroAvia Model ZA601 engine’s novel or unusual design feature.

ZeroAvia’s aircraft engines will operate using electrical power instead of air and fuel combustion to propel the aircraft. These electric engines will be designed, manufactured, and controlled differently than turbine or reciprocating aircraft engines. They will be built with an electric motor, motor controller, and high-voltage electrical systems that draw energy from electrical storage or electrical energy generating systems. The electric motor is a device that converts electrical energy into mechanical energy by electric current flowing through windings (wire coils) in the motor, producing a magnetic field that interacts with permanent magnets mounted on the engine’s main rotor. The controller is a system that consists of two main functional elements: the motor controller and an electric power

¹ <https://www.astm.org/Standards/F3338.html>.

inverter to drive the motor.² The high-voltage electrical system is a combination of wires and connectors that integrate the motor and controller.

In addition, the technology comprising these high-voltage and high-current electronic components introduces potential hazards that do not exist in turbine and reciprocating aircraft engines. For example, high-voltage transmission lines, electromagnetic shields, magnetic materials, and high-speed electrical switches are necessary to use the physical properties of an electric engine for propelling an aircraft. However, this technology also exposes the aircraft to potential failures that are not common to gas-powered turbine and reciprocating engines, technological differences which could adversely affect safety if not addressed through these special conditions.

ZeroAvia's Electric Engines Require a Mix of Part 33 Standards and Special Conditions

Although the electric aircraft engines ZeroAvia use a novel or unusual design feature that the FAA did not envisage during the development of its existing part 33 airworthiness standards, these engines share some basic similarities, in configuration and function, to engines that use the combustion of air and fuel, and therefore require similar provisions to prevent common hazards (e.g., fire, uncontained high energy debris, and loss of thrust control). However, the primary failure concerns and the probability of exposure to these common hazards are different for the ZeroAvia Model ZA601 electric engine. This creates a need to develop special conditions to ensure the engine's safety and reliability.

The requirements in part 33 ensure that the design and construction of aircraft engines, including the engine control systems, are proper for the type of aircraft engines considered for certification. However, part 33 does not fully address aircraft engines like the ZeroAvia Model ZA601, which operates using electrical technology as the primary means of propelling the aircraft. This necessitates the development of special conditions that provide adequate airworthiness standards for these aircraft engines.

The requirements in part 33, subpart B, are applicable to reciprocating and turbine aircraft engines. Subparts C and D are applicable to reciprocating aircraft engines. Subparts E through G are

applicable to turbine aircraft engines. As such, subparts B through G do not adequately address the use of aircraft engines that operate using electrical technology. Special conditions are needed to ensure a level of safety for electric engines that is commensurate with these subparts, as those regulatory requirements do not contain adequate or appropriate safety standards for electric aircraft engines that are used to propel aircraft.

FAA Special Conditions for the ZeroAvia Engine Design

Applicability: Special condition no. 1 requires ZeroAvia to comply with part 33, except for those airworthiness standards specifically and explicitly applicable only to reciprocating and turbine aircraft engines.

Engine Ratings and Operating Limitations: Special condition no. 2, in addition to compliance with § 33.7(a), requires ZeroAvia to establish engine operating limits related to the power, torque, speed, and duty cycles specific to ZeroAvia Model ZA601 electric engines. The duty or duty cycle is a statement of the load(s) to which the engine is subjected, including, if applicable, starting, no-load and rest, and de-energized periods, including their durations or cycles and sequence in time. This special condition also requires ZeroAvia to declare cooling fluid grade or specification, power supply requirements, and to establish any additional ratings that are necessary to define the ZeroAvia Model ZA601 electric engine capabilities required for safe operation of the engine.

Materials: Special condition no. 3 requires ZeroAvia to comply with § 33.15, which sets requirements for the suitability and durability of materials used in the engine, and which would otherwise be applicable only to reciprocating and turbine aircraft engines.

Fire Protection: Special condition no. 4 requires ZeroAvia to comply with § 33.17, which sets requirements to protect the engine and certain parts and components of the airplane against fire, and which would otherwise be applicable only to reciprocating and turbine aircraft engines. Additionally, this special condition requires ZeroAvia to ensure that the high-voltage electrical wiring interconnect systems that connect the controller to the motor are protected against arc faults. An arc fault is a high-power discharge of electricity between two or more conductors. This discharge generates heat, which can break down the wire's insulation and trigger an electrical fire. Arc faults can range in power from a few amps up to

thousands of amps and are highly variable in strength and duration.

Durability: Special condition no. 5 requires the design and construction of ZeroAvia Model ZA601 electric engines to minimize the development of an unsafe condition between maintenance intervals, overhaul periods, and mandatory actions described in the instructions for continued airworthiness (ICA).

Engine Cooling: Special condition no. 6 requires ZeroAvia to comply with § 33.21, which requires the engine design and construction to provide necessary cooling, and which would otherwise be applicable only to reciprocating and turbine aircraft engines. Additionally, this special condition requires ZeroAvia to document the cooling system monitoring features and usage in the engine installation manual (see § 33.5) if cooling is required to satisfy the safety analysis described in special condition no. 17. Loss of cooling to an aircraft engine that operates using electrical technology can result in rapid overheating and abrupt engine failure, with critical consequences to safety.

Engine Mounting Attachments and Structure: Special condition no. 7 requires ZeroAvia and the design to comply with § 33.23, which requires the applicant to define, and the design to withstand, certain load limits for the engine mounting attachments and related engine structure. These requirements would otherwise be applicable only to reciprocating and turbine aircraft engines.

Accessory Attachments: Special condition no. 8 requires the design to comply with § 33.25, which sets certain design, operational, and maintenance requirements for the engine's accessory drive and mounting attachments, and which would otherwise be applicable only to reciprocating and turbine aircraft engines.

Overspeed: Special condition no. 9 requires ZeroAvia to establish by test, validated analysis, or a combination of both, that—

- (1) the rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect;
- (2) rotors must possess sufficient strength margin to prevent burst; and
- (3) operating limits must not be exceeded in service.

The special condition associated with rotor overspeed is necessary because of the differences between turbine engine technology and the technology of these electric engines. Turbine rotor speed is driven by expanding gas and aerodynamic loads on rotor blades. Therefore, the rotor speed or overspeed

² Sometimes the entire system is referred to as an inverter. Throughout this document, it is referred to as the controller.

results from interactions between thermodynamic and aerodynamic engine properties. The speed of an electric engine is directly controlled by electric current, and an electromagnetic field created by the controller. Consequently, electric engine rotor response to power demand and overspeed-protection systems is quicker and more precise. Also, the failure modes that can lead to overspeed between turbine engines and electric engines are vastly different, and therefore this special condition is necessary.

Engine Control Systems: Special condition no. 10(b) requires ZeroAvia to ensure that these engines do not experience any unacceptable operating characteristics, such as unstable speed or torque control, or exceed any of their operating limitations.

The FAA originally issued § 33.28 at amendment 33-15 to address the evolution of the means of controlling the fuel supplied to the engine, from carburetors and hydro-mechanical controls to electronic control systems. These electronic control systems grew in complexity over the years, and as a result, the FAA amended § 33.28 at amendment 33-26 to address these increasing complexities. The controller that forms the controlling system for these electric engines is significantly simpler than the complex control systems used in modern turbine engines. The current regulations for engine control are inappropriate for electric engine control systems; therefore, special condition no. 10(b) associated with controlling these engines is necessary.

Special condition no. 10(c) requires ZeroAvia to develop and verify the software and complex electronic hardware used in programmable logic devices, using proven methods that ensure that the devices can provide the accuracy, precision, functionality, and reliability commensurate with the hazard that is being mitigated by the logic. RTCA DO-254, "Design Assurance Guidance for Airborne Electronic Hardware," dated April 19, 2000,³ distinguishes between complex and simple electronic hardware.

Special condition no. 10(d) requires data from assessments of all functional aspects of the control system to prevent errors that could exist in software programs that are not readily observable by inspection of the code. Also, ZeroAvia must use methods that will result in the expected quality that ensures the engine control system

performs the intended functions throughout the declared operational envelope.

The environmental limits referred to in special condition no. 10(e) include temperature, vibration, high-intensity radiated fields (HIRF), and others addressed in RTCA DO-160G, "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments" dated December 8, 2010, which includes "DO-160G Change 1—Environmental Conditions and Test Procedures for Airborne Equipment" dated December 16, 2014, and "DO-357—User Guide: Supplement to DO-160G" dated December 16, 2014.⁴ Special condition 10(e) requires ZeroAvia to demonstrate by system or component tests in special condition no. 27 any environmental limits that cannot be adequately substantiated by the endurance demonstration, validated analysis, or a combination thereof.

Special condition no. 10(f) requires ZeroAvia to evaluate various control system failures to ensure that such failures will not lead to unsafe engine conditions. The FAA issued Advisory Circular (AC) AC 33.28-3, "Guidance Material for 14 CFR 33.28, Engine Control Systems," on May 23, 2014, for reciprocating and turbine engines.⁵ Paragraph 6-2 of this AC provides guidance for defining an engine control system failure when showing compliance with the requirements of § 33.28. AC 33.28-3 also includes objectives for control system integrity requirements, criteria for a loss of thrust (or power) control (LOTC/LOPC) event, and an acceptable LOTC/LOPC rate. The electrical and electronic failures and failure rates did not account for electric engines when the FAA issued this AC, and therefore performance-based special conditions are established to allow fault accommodation criteria to be developed for electric engines.

The phrase "in the full-up configuration" used in special condition no. 10(f)(2) refers to a system without any fault conditions present. The electronic control system must, when in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events.

The term "local" in the context of "local events" used in special condition no. 10(f)(4) means failures or malfunctions leading to events in the

intended aircraft installation such as fire, overheat, or failures leading to damage to engine control system components. These local events must not result in a hazardous engine effect due to engine control system failures or malfunctions.

Special condition no. 10(g) requires ZeroAvia to conduct a safety assessment of the control system to support the safety analysis in special condition no. 17. This control system safety assessment provides engine response to failures, and rates of these failures that can be used at the aircraft-level safety assessment.

Special condition no. 10(h) requires ZeroAvia to provide appropriate protection devices or systems to ensure that engine operating limits will not be exceeded in service.

Special condition no. 10(i) is necessary to ensure that the controllers are self-sufficient and isolated from other aircraft systems. The aircraft-supplied data supports the analysis at the aircraft level to protect the aircraft from common mode failures that could lead to major propulsion power loss. The exception "other than power command signals from the aircraft," noted in special condition no. 10(i), is based on the FAA's determination that the engine controller has no reasonable means to determine the validity of any in-range signals from the electrical power system. In many cases, the engine control system can detect a faulty signal from the aircraft, but the engine control system typically accepts the power command signal as a valid value.

The term "independent" in the context of "fully independent engine systems" referenced in special condition no. 10(i) means the controllers should be self-sufficient and isolated from other aircraft systems or provide redundancy that enables the engine control system to accommodate aircraft data system failures. In the case of loss, interruption, or corruption of aircraft-supplied data, the engine must continue to function in a safe and acceptable manner without hazardous engine effects.

The term "accommodated," in the context of "detected and accommodated," referenced in special condition 10(i)(2) is to assure that, upon detecting a fault, the system continues to function safely.

Special condition no. 10(j) requires ZeroAvia to show that the loss of electric power from the aircraft will not cause the electric engine to malfunction in a manner hazardous to the aircraft. The total loss of electric power to the electric engine may result in an engine shutdown.

⁴ <https://my.rtca.org/NCProduct?id=a1B36000001IcnSEAS>.

⁵ https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_33_28-3.pdf.

³ <https://my.rtca.org/productdetails?id=a1B36000001IcjTEAS>.

Instrument Connection: Special condition no. 11 requires ZeroAvia to comply with § 33.29(a), (e), and (g), which set certain requirements for the connection and installation of instruments to monitor engine performance. The remaining requirements in § 33.29 apply only to technologies used in reciprocating and turbine aircraft engines.

Instrument connections (wires, wire insulation, potting, grounding, connector designs, etc.) must not introduce unsafe features or characteristics to the aircraft. Special condition no. 11 requires the safety analysis to include potential hazardous effects from failures of instrument connections to function properly. The outcome of this analysis might identify the need for design enhancements or additional ICA to ensure safety.

Stress Analysis: Section 33.62 requires applicants to perform a stress analysis on each turbine engine. This regulation is explicitly applicable only to turbine engines and turbine engine components, and it is not appropriate for the ZeroAvia Model ZA601 electric engines. However, a stress analysis particular to these electric engines is necessary to account for stresses resulting from electric technology used in the engine.

Special condition no. 12 requires a mechanical, thermal, and electrical stress analysis to show that the engine has a sufficient design margin to prevent unacceptable operating characteristics. Also, the applicant must determine the maximum stresses in the engine by tests, validated analysis, or a combination thereof, and show that they do not exceed minimum material properties.

Critical and Life-Limited Parts: Special condition no. 13 requires ZeroAvia to show whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

The term “low-cycle fatigue,” referenced in special condition no. 13(a)(2), is a decline in material strength from exposure to cyclic stress at levels beyond the stress threshold the material can sustain indefinitely. This threshold is known as the “material endurance limit.” Low-cycle fatigue typically causes a part to sustain plastic or permanent deformation during the cyclic loading and can lead to cracks, crack growth, and fracture. Engine parts that operate at high temperatures and high mechanical stresses simultaneously can experience low-

cycle fatigue coupled with creep. Creep is the tendency of a metallic material to permanently move or deform when it is exposed to the extreme thermal conditions created by hot combustion gasses, and substantial physical loads such as high rotational speeds and maximum thrust. Conversely, high-cycle fatigue is caused by elastic deformation, small strains caused by alternating stress, and a much higher number of load cycles compared to the number of cycles that cause low-cycle fatigue.

The engineering plan referenced in special condition no. 13(b)(1) informs the manufacturing and service management processes of essential information that ensures the life limit of a part is valid. The engineering plan provides methods for verifying the characteristics and qualities assumed in the design data using methods that are suitable for the part criticality. The engineering plan informs the manufacturing process of the attributes that affect the life of the part. The engineering plan, manufacturing plan, and service management plan are related in that assumptions made in the engineering plan are linked to how a part is manufactured and how that part is maintained in service. For example, environmental effects on life limited electric engine parts, such as humidity, might not be consistent with the assumptions used to design the part. ZeroAvia must ensure that the engineering plan is complete, available, and acceptable to the Administrator.

The term “manufacturing plan,” referenced in special condition no. 13(b)(2), is the collection of data required to translate documented engineering design criteria into physical parts, and to verify that the parts comply with the properties established by the design data. Because engines are not intentionally tested to failure during a certification program, documents and processes used to execute production and quality systems required by § 21.137 guarantee inherent expectations for performance and durability. These systems limit the potential manufacturing outcomes to parts that are consistently produced within design constraints.

The manufacturing plan and service management plan ensure that essential information from the engineering plan, such as the design characteristics that safeguard the integrity of critical and life-limited parts, is consistently produced and preserved over the lifetime of those parts. The manufacturing plan includes special processes and production controls to prevent inclusion of manufacturing-induced anomalies, which can degrade

the part’s structural integrity. Examples of manufacturing-induced anomalies are material contamination, unacceptable grain growth, heat-affected areas, and residual stresses.

The service-management plan ensures the method and assumptions used in the engineering plan to determine the part’s life remain valid by enabling corrections identified from in-service experience, such as service-induced anomalies and unforeseen environmental effects, to be incorporated into the design process. The service-management plan also becomes the ICA for maintenance, overhaul, and repairs of the part.

Lubrication System: Special condition no. 14 requires ZeroAvia to ensure that the lubrication system is designed to function properly between scheduled maintenance intervals and to prevent contamination of the engine bearings. This special condition also requires ZeroAvia to demonstrate the unique lubrication attributes and functional capability of the ZeroAvia Model ZA601 electric engine design.

The corresponding part 33 regulations include provisions for lubrication systems used in reciprocating and turbine engines. The part 33 requirements account for safety issues associated with specific reciprocating and turbine engine system configurations. These regulations are not appropriate for the ZeroAvia Model ZA601 electric engines. For example, electric engines do not have a crankcase or lubrication oil sump. Electric engine bearings are sealed, so they do not require an oil circulation system. The lubrication system in these engines is also independent of the propeller pitch control system. Therefore, special condition no. 14 incorporates only certain requirements from the part 33 regulations.

Power Response: Special condition no. 15 requires the design and construction of the ZeroAvia Model ZA601 electric engines to enable an increase from the minimum—

(1) power setting to the highest rated power without detrimental engine effects, and

(2) within a time interval appropriate for the intended aircraft application.

The engine control system governs the increase or decrease in power in combustion engines to prevent too much (or too little) fuel from being mixed with air before combustion. Due to the lag in rotor response time, improper fuel/air mixtures can result in engine surges, stalls, and exceedances above rated limits and durations. Failure of the combustion engine to provide thrust, maintain rotor speeds below rotor burst thresholds, and keep

temperatures below limits can have engine effects detrimental to the aircraft. Similar detrimental effects are possible in the ZeroAvia Model ZA601 electric engines, but the causes are different. Electric engines with reduced power response time can experience insufficient thrust to the aircraft, shaft over-torque, and over-stressed rotating components, propellers, and critical propeller parts. Therefore, this special condition is necessary.

Continued Rotation: Special condition no. 16 requires ZeroAvia to design the Model ZA601 electric engines such that, if the main rotating systems continue to rotate after the engine is shut down while in-flight, this continued rotation will not result in any hazardous engine effects.

The main rotating system of the ZeroAvia Model ZA601 engines consists of the rotors, shafts, magnets, bearings, and wire windings that convert electrical energy to shaft torque. For the initial aircraft application, this rotating system must continue to rotate after the power source to the engine is shut down. The safety concerns associated with this special condition are substantial asymmetric aerodynamic drag that can cause aircraft instability, loss of control, and reduced efficiency; and may result in a forced landing or inability to continue safe flight.

Safety Analysis: Special condition no. 17 requires ZeroAvia to comply with § 33.75(a)(1) and (a)(2), which require the applicant to conduct a safety analysis of the engine, and which would otherwise be applicable only to turbine aircraft engines. Additionally, this special condition requires ZeroAvia to assess its engine design to determine the likely consequences of failures that can reasonably be expected to occur. The failure of such elements, and associated prescribed integrity requirements, must be stated in the safety analysis.

A primary failure mode is the manner in which a part is most likely going to fail. Engine parts that have a primary failure mode, a predictable life to the failure, and a failure consequence that results in a hazardous effect, are life-limited or critical parts. Some life-limited or critical engine parts can fail suddenly in their primary failure mode, from prolonged exposure to normal engine environments such as temperature, vibration, and stress, if those engine parts are not removed from service before the damage mechanisms progress to a failure. Due to the consequence of failure, these parts are not allowed to be managed by on-condition or probabilistic means because the probability of failure cannot be sensibly estimated in numerical

terms. Therefore, the parts are managed by compliance with integrity requirements, such as mandatory maintenance (life limits, inspections, inspection techniques), to ensure the qualities, features, and other attributes that prevent the part from failing in its primary failure mode are preserved throughout its service life. For example, if the number of engine cycles to failure are predictable and can be associated with specific design characteristics, such as material properties, then the applicant can manage the engine part with life limits.

Complete or total power loss is not assumed to be a minor engine event, as it is in the turbine engine regulation § 33.75, to account for experience data showing a potential for higher hazard levels from power loss events in single-engine general aviation aircraft. The criteria in these special conditions apply to an engine that continues to operate at partial power after a single electrical or electronic fault or failure. Total loss of power is classified at the aircraft level using special condition nos. 10(g) and 33(h).

Ingestion: Special condition no. 18 requires ZeroAvia to ensure that these engines will not experience unacceptable power loss or hazardous engine effects from ingestion. The associated regulations for turbine engines, §§ 33.76, 33.77, and 33.78, are based on potential performance impacts and damage from birds, ice, rain, and hail being ingested into a turbine engine that has an inlet duct, which directs air into the engine for combustion, cooling, and thrust. By contrast, the ZeroAvia electric engines are not configured with inlet ducts.

An “unacceptable” power loss, as used in special condition no. 18(b), is such that the power or thrust required for safe flight of the aircraft becomes unavailable to the pilot. The specific amount of power loss that is required for safe flight depends on the aircraft configuration, speed, altitude, attitude, atmospheric conditions, phase of flight, and other circumstances where the demand for thrust is critical to safe operation of the aircraft.

Liquid and Gas Systems: Special condition no. 19 requires ZeroAvia to ensure that systems used for lubrication or cooling of engine components are designed and constructed to function properly. Also, if a system is not self-contained, the interfaces to that system would be required to be defined in the engine installation manual. Systems for the lubrication or cooling of engine components can include heat exchangers, pumps, fluids, tubing, connectors, electronic devices,

temperature sensors and pressure switches, fasteners and brackets, bypass valves, and metallic chip detectors. These systems allow the electric engine to perform at extreme speeds and temperatures for durations up to the maintenance intervals without exceeding temperature limits or predicted deterioration rates.

Vibration Demonstration: Special condition no. 20 requires ZeroAvia to ensure the engine—

(1) is designed and constructed to function throughout its normal operating range of rotor speeds and engine output power without inducing excessive stress caused by engine vibration, and

(2) design undergoes a vibration survey.

The vibration demonstration is a survey that characterizes the vibratory attributes of the engine. It verifies that the stresses from vibration do not impose excessive force or result in natural frequency responses on the aircraft structure. The vibration demonstration also ensures internal vibrations will not cause engine components to fail. Excessive vibration force occurs at magnitudes and forcing functions or frequencies, which may result in damage to the aircraft. Stress margins to failure add conservatism to the highest values predicted by analysis for additional protection from failure caused by influences beyond those quantified in the analysis. The result of the additional design margin is improved engine reliability that meets prescribed thresholds based on the failure classification. The amount of margin needed to achieve the prescribed reliability rates depends on an applicant's experience with a product. The FAA considers the reliability rates when deciding how much vibration is “excessive.”

Overtorque: Special condition no. 21 requires ZeroAvia to demonstrate that the engine is capable of continued operation without the need for maintenance if it experiences a certain amount of overtorque.

ZeroAvia's electric engine converts electrical energy to shaft torque, which is used for propulsion. The electric motor, controller, and high-voltage systems control the engine torque. When the pilot commands power or thrust, the engine responds to the command and adjusts the shaft torque to meet the demand. During the transition from one power or thrust setting to another, a small delay, or latency, occurs in the engine response time. While the engine dwells in this time interval, it can continue to apply torque until the command to change the torque

is applied by the engine control. The allowable amount of overtorque during operation depends on the engine's response to changes in the torque command throughout its operating range.

Calibration Assurance: Special condition no. 22 requires ZeroAvia to subject the engine to calibration tests to establish its power characteristics and the conditions both before and after the endurance and durability demonstrations specified in special condition nos. 23 and 26. The calibration test requirements specified in § 33.85 only apply to the endurance test specified in § 33.87, which is applicable only to turbine engines. The FAA determined that the methods used for accomplishing those tests for turbine engines are not the best approach for electric engines. The calibration tests in § 33.85 have provisions applicable to ratings that are not relevant to the ZeroAvia Model ZA601 engines. Special condition no. 22 allows ZeroAvia to demonstrate the endurance and durability of the electric engine either together or independently, whichever is most appropriate for the engine qualities being assessed. Consequently, the special condition applies the calibration requirement to both the endurance and durability tests.

Endurance Demonstration: Special condition no. 23 requires ZeroAvia to perform an endurance demonstration test that is acceptable to the Administrator. The Administrator will evaluate the extent to which the test exposes the engine to failures that could occur when the engine is operated at up to its rated values, and determine if the test is sufficient to show that the engine design will not exhibit unacceptable effects in service, such as significant performance deterioration, operability restrictions, and engine power loss or instability, when it is run repetitively at rated limits and durations in conditions that represent extreme operating environments.

Temperature Limit: Special condition no. 24 requires ZeroAvia to ensure the engine can endure operation at its temperature limits plus an acceptable margin. An "acceptable margin," as used in the special condition, is the amount of temperature above that required to prevent the least capable engine allowed by the type design, as determined by § 33.8, from failing due to temperature-related causes when operating at the most extreme engine and environmental thermal conditions.

Operation Demonstration: Special condition no. 25 requires the engine to demonstrate safe operating characteristics throughout its declared

flight envelope and operating range. Engine operating characteristics define the range of functional and performance values the ZeroAvia Model ZA601 electric engines can achieve without incurring hazardous effects. The characteristics are requisite capabilities of the type design that qualify the engine for installation into aircraft and that determine aircraft installation requirements. The primary engine operating characteristics are assessed by the tests and demonstrations required by these special conditions. Some of these characteristics are shaft output torque, rotor speed, power consumption, and engine thrust response. The engine performance data ZeroAvia will use to certify the engine must account for installation loads and effects. These are aircraft-level effects that could affect the engine characteristics that are measured when the engine is tested on a stand or in a test cell. These effects could result from elevated inlet cowl temperatures, aircraft maneuvers, flowstream distortion, and hard landings. For example, an engine that is run in a sea-level, static test facility could demonstrate more capability for some operating characteristics than it will have when operating on an aircraft in certain flight conditions. Discoveries like this during certification could affect engine ratings and operating limits. Therefore, the installed performance defines the engine performance capabilities.

Durability Demonstration: Special condition no. 26 requires ZeroAvia to subject the engine to a durability demonstration. The durability demonstration must show that the engine is designed and constructed to minimize the development of any unsafe condition between maintenance intervals or between engine replacement intervals if maintenance or overhaul is not defined. The durability demonstration also verifies that the ICA is adequate to ensure the engine, in its fully deteriorated state, continues to generate rated power or thrust, while retaining operating margins and sufficient efficiency, to support the aircraft safety objectives. The amount of deterioration an engine can experience is restricted by operating limitations and managed by the engine ICA. Section 33.90 specifies how maintenance intervals are established; it does not include provisions for an engine replacement. Electric engines and turbine engines deteriorate differently; therefore, ZeroAvia will use different test effects to develop maintenance,

overhaul, or engine replacement information for their electric engine.

System and Component Tests: Special condition no. 27 requires ZeroAvia to show that the systems and components of the engine perform their intended functions in all declared engine environments and operating conditions.

Sections 33.87 and 33.91, which are specifically applicable to turbine engines, have conditional criteria to decide if additional tests will be required after the engine tests. The criteria are not suitable for electric engines. Part 33 associates the need for additional testing with the outcome of the § 33.87 endurance test because it is designed to address safety concerns in combustion engines. For example, § 33.91(b) requires the establishment of temperature limits for components that require temperature-controlling provisions, and § 33.91(a) requires additional testing of engine systems and components where the endurance test does not fully expose internal systems and components to thermal conditions that verify the desired operating limits. Exceeding temperature limits is a safety concern for electric engines. The FAA determined that the § 33.87 endurance test might not be the best way to achieve the highest thermal conditions for all the electronic components of electric engines because heat is generated differently in electronic systems than it is in turbine engines. Additional safety considerations also need to be addressed in the test. Therefore, special condition no. 27 is a performance-based requirement that allows ZeroAvia to determine when engine systems and component tests are necessary and to determine the appropriate limitations of those systems and components used in the ZeroAvia Model ZA601 electric engine.

Rotor Locking Demonstration: Special condition no. 28 requires the engine to demonstrate reliable rotor locking performance and that no hazardous effects will occur if the engine uses a rotor locking device to prevent shaft rotation.

Some engine designs enable the pilot to prevent a propeller shaft or main rotor shaft from turning while the engine is running, or the aircraft is in-flight. This capability is needed for some installations that require the pilot to confirm functionality of certain flight systems before takeoff. The ZeroAvia engine installations are not limited to aircraft that will not require rotor locking. Section 33.92 prescribes a test that may not include the appropriate criteria to demonstrate sufficient rotor locking capability for these engines.

Therefore, this special condition is necessary.

The special condition does not define “reliable” rotor locking but allows ZeroAvia to classify the hazard as major or minor and assign the appropriate quantitative criteria that meet the safety objectives required by special condition no. 17 and the applicable portions of § 33.75.

Teardown Inspection: Special condition no. 29 requires ZeroAvia to perform a teardown or non-teardown evaluation after the endurance, durability, and overtorque demonstrations, based on the criteria in special condition no. 29(a) or (b).

Special condition no. 29(b) includes restrictive criteria for “non-teardown evaluations” to account for electric engines, sub-assemblies, and components that cannot be disassembled without destroying them. Some electrical and electronic components like ZeroAvia’s are constructed in an integrated fashion that precludes the possibility of tearing them down without destroying them. The special condition indicates that, if a teardown cannot be performed in a non-destructive manner, then the inspection or replacement intervals must be established based on the endurance and durability demonstrations. The procedure for establishing maintenance should be agreed upon between the applicant and the FAA prior to running the relevant tests. Data from the endurance and durability tests may provide information that can be used to determine maintenance intervals and life limits for parts. However, if life limits are required, the lifing procedure is established by special condition no. 13, Critical and Life-Limited Parts, which corresponds to § 33.70. Therefore, the procedure used to determine which parts are life-limited, and how the life limits are established, requires FAA approval, as it does for § 33.70. Sections 33.55 and 33.93 do not contain similar requirements because reciprocating and turbine engines can be completely disassembled for inspection.

Containment: Special condition no. 30 requires the engine to have containment features that protect against likely hazards from rotating components, unless ZeroAvia can show the margin to rotor burst does not justify the need for containment features. Rotating components in electric engines are typically disks, shafts, bearings, seals, orbiting magnetic components, and the assembled rotor core. However, if the margin to rotor burst does not unconditionally rule out the possibility of a rotor burst, then the special condition requires ZeroAvia to assume

a rotor burst could occur and design the stator case to contain the failed rotors, and any components attached to the rotor that are released during the failure. In addition, ZeroAvia must also determine the effects of subsequent damage precipitated by a main rotor failure and characterize any fragments that are released forward or aft of the containment features. Further, decisions about whether the ZeroAvia engine requires containment features, and the effects of any subsequent damage following a rotor burst, should be based on test or validated analysis. The fragment energy levels, trajectories, and size are typically documented in the installation manual because the aircraft will need to account for the effects of a rotor failure in the aircraft design. The intent of this special condition is to prevent hazardous engine effects from structural failure of rotating components and parts that are built into the rotor assembly.

Engine and Propeller Systems Test: Special condition no. 31 requires ZeroAvia to conduct functional demonstrations, including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, based on the propeller’s or fan’s variable pitch functions that are planned for use on these electric engines, using a representative propeller. The requirements of § 33.95 prescribe tests based on the operating characteristics of turbine engines equipped with variable pitch propellers, which include thrust response times, engine stall, propeller shaft overload, loss of thrust control, and hardware fatigue. The electric engines ZeroAvia uses have different operating characteristics that substantially affect their susceptibility to these and other potential failures typical of turbine engines. Because ZeroAvia’s electric engines may be installed with a variable pitch propeller, the special condition is necessary.

General Conduct of Tests: Special condition no. 32 requires ZeroAvia to—

- (1) include scheduled maintenance in the engine ICA;
- (2) include any maintenance, in addition to the scheduled maintenance, that was needed during the test to satisfy the applicable test requirements; and
- (3) conduct any additional tests that the Administrator finds necessary, as warranted by the test results.

For example, certification endurance test shortfalls might be caused by omitting some prescribed engine test conditions, or from accelerated deterioration of individual parts arising from the need to force the engine to operating conditions that drive the

engine above the engine cycle values of the type design. If an engine part fails during a certification test, the entire engine might be subjected to penalty runs, with a replacement or newer part design installed on the engine, to meet the test requirements. Also, the maintenance performed to replace the part, so that the engine could complete the test, would be included in the engine ICA. In another example, if the applicant replaces a part before completing an engine certification test because of a test facility failure and can substantiate the part to the Administrator through bench testing, they might not need to substantiate the part design using penalty runs with the entire engine.

The term “excessive” is used to describe the frequency of unplanned engine maintenance, and the frequency of unplanned test stoppages, to address engine issues that prevent the engine from completing the tests in special condition nos. 32(b)(1) and (2), respectively. Excessive frequency is an objective assessment from the FAA’s analysis of the amount of unplanned maintenance needed for an engine to complete a certification test. The FAA’s assessment may include the reasons for the unplanned maintenance, such as the effects test facility equipment may have on the engine, the inability to simulate a realistic engine operating environment, and the extent to which an engine requires modifications to complete a certification test. In some cases, the applicant may be able to show that unplanned maintenance has no effect on the certification test results, or they might be able to attribute the problem to the facility or test-enabling equipment that is not part of the type design. In these cases, the ICA will not be affected. However, if ZeroAvia cannot reconcile the amount of unplanned service, then the FAA may consider the unplanned maintenance required during the certification test to be “excessive,” prompting the need to add the unplanned maintenance to mandatory ICA to comply with the certification requirements.

Engine Electrical Systems: The current requirements in part 33 for electronic engine control systems were developed to maintain an equivalent level of safety demonstrated by engines that operate with hydromechanical engine control systems. At the time § 33.28 was codified, the only electrical systems used on turbine engines were low-voltage, electronic engine control systems (EEC) and high-energy spark-ignition systems. Electric aircraft engines use high-voltage, high-current electrical systems and components that

are physically located in the motor and motor controller. Therefore, the existing part 33 control system requirements do not adequately address all the electrical systems used in electric aircraft engines. Special condition no. 33 is established using the existing engine control systems requirement as a basis. It applies applicable airworthiness criteria from § 33.28 and incorporates airworthiness criteria that recognize and focus on the electrical power system used in the engine.

Special condition no. 33(b) ensures that all aspects of an electrical system, including generation, distribution, and usage, do not experience any unacceptable operating characteristics.

Special condition no. 33(c) requires the electrical power distribution aspects of the electrical system to provide the safe transfer of electrical energy throughout the electric engine.

Special condition no. 33(d) requires the engine electrical system to be designed such that the loss, malfunction, or interruption of the electrical power source, or power conditions that exceed design limits, will not result in a hazardous engine effect.

Special condition no. 33(e) requires ZeroAvia to identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine, or electrical power supplied from the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

Special condition no. 33(f) requires ZeroAvia to demonstrate that systems and components will operate properly up to environmental limits, using special conditions, when such limits cannot be adequately substantiated by the endurance demonstration, validated analysis, or a combination thereof. The environmental limits referred to in special condition include temperature, vibration, HIRF, and others addressed in RTCA DO-160G, "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments."

Special condition 33(g) requires ZeroAvia to evaluate various electric engine system failures to ensure that these failures will not lead to unsafe engine conditions. The evaluation includes single-fault tolerance, ensures no single electrical or electronic fault or failure would result in hazardous engine effects, and ensures that any failure or malfunction leading to local events in the intended aircraft application do not result in certain hazardous engine effects. The special condition also

implements integrity requirements, criteria for LOTC/LOPC events, and an acceptable LOTC/LOPC rate.

Special condition 33(h) requires ZeroAvia to conduct a safety assessment of the engine electrical system to support the safety analysis in special condition no. 17. This safety assessment provides engine response to failures, and rates of these failures, that can be used at the aircraft safety assessment level.

The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 33-25-02-SC for the ZeroAvia ZA601 electric engine which was published in the **Federal Register** on January 8, 2026 (91 FR 633).

No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the ZeroAvia ZA601 electric engines. Should ZeroAvia apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as the certification date for the ZeroAvia ZA601 electric engine is imminent, the FAA finds that good cause exists to make these special conditions effective upon publication.

Conclusion

This action affects only ZeroAvia ZA601 electric engines. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 33

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for

ZeroAvia's Model ZA601 engine. The applicant must also comply with the certification procedures set forth in title 14, Code of Federal Regulations (14 CFR) part 21.

1. Applicability:

(a) Unless otherwise noted in these special conditions, the engine design must comply with the airworthiness standards for aircraft engines set forth in 14 CFR part 33, except for those airworthiness standards that are specifically and explicitly applicable only to reciprocating and turbine aircraft engines or as specified herein.

(b) The applicant must comply with this part using a means of compliance, which may include consensus standards, accepted by the Administrator.

(c) The applicant requesting acceptance of a means of compliance must provide the means of compliance to the FAA in a form and manner acceptable to the Administrator.

2. *Engine Ratings and Operating Limits:* In addition to § 33.7(a), the engine ratings and operating limits must be established and included in the type certificate data sheet based on:

(a) Shaft power, torque, rotational speed, temperature, and time for:

(1) Rated takeoff power;

(2) Rated maximum continuous power; and

(3) Rated maximum temporary power and associated time limit.

(b) Duty cycle and the rating at that duty cycle. The duty cycle must be declared in the engine type certificate data sheet.

(c) Cooling fluid grade or specification.

(d) Power-supply requirements.

(e) Any other ratings or limitations that are necessary for the safe operation of the engine.

(f) In determining the engine performance and operating limitations, the overall limits of accuracy of the engine control system, of the engine electrical systems, and of the necessary instrumentation as defined in § 33.5(a)(6) must be taken into account.

3. *Materials:* The engine design must comply with § 33.15.

4. *Fire Protection:* The engine design must comply with § 33.17(b) through (g). In addition—

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire during normal operation and failure conditions and must minimize the effect of such a fire.

(b) Electrical wiring interconnection systems must be protected against arc faults that can lead to a fire that could

result in hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions. Any non-protected electrical wiring interconnects must be analyzed to show that arc faults that can lead to a fire do not cause a hazardous engine effect.

5. *Durability*: The engine design and construction must minimize the development of an unsafe condition of the engine between maintenance intervals, overhaul periods, or mandatory actions described in the applicable ICA. The engine design must also comply with § 33.19(b).

6. *Engine Cooling*: The engine design and construction must comply with § 33.21. In addition, if cooling is required to satisfy the safety analysis as described in special condition no. 17 of these special conditions, the cooling system monitoring features and usage must be documented in accordance with § 33.5.

7. *Engine Mounting Attachments and Structure*: The engine mounting attachments and related engine structures must comply with § 33.23.

8. *Accessory Attachments*: The engine must comply with § 33.25.

9. *Overspeed*:

(a) A rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions. Compliance with this paragraph must be shown by test, validated analysis, or a combination of both. Applicable assumed rotor speeds must be declared and justified.

(b) Rotors must possess sufficient strength with a margin to burst above certified operating conditions and above failure conditions leading to rotor overspeed. The margin to burst must be shown by test, validated analysis, or a combination thereof.

(c) The engine must not exceed the rotor speed operational limitations that could affect rotor structural integrity.

10. *Engine Control Systems*:

(a) *Applicability*. The requirements of this special condition apply to any system or device that is part of the engine type design that controls, limits, monitors, or protects engine operation, and is necessary for the continued airworthiness of the engine.

(b) *Engine control*. The engine control system must ensure that the engine does not experience any unacceptable operating characteristics or exceed its operating limits, including in failure conditions where the fault or failure results in a change from one control mode to another, from one channel to another, or from the primary system to the back-up system, if applicable.

(c) *Design Assurance*. The software and complex electronic hardware, including programmable logic devices, must be:

(1) Designed and developed using a structured and systematic approach that provides a level of assurance for the encoded logic commensurate with the hazard associated with the failure or malfunction of the systems in which the devices are located; and

(2) Substantiated by a verification methodology acceptable to the Administrator.

(d) *Validation*. All functional aspects of the control system must be substantiated by test, analysis, or a combination thereof, to show that the engine control system performs the intended functions throughout the declared operational envelope.

(e) *Environmental Limits*. Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in special condition no. 27 of these special conditions.

(f) *Engine control system failures*. The engine control system must:

(1) Have a maximum rate of loss of power control (LOPC) that is suitable for the intended aircraft application. The estimated LOPC rate must be documented in accordance with § 33.5;

(2) When in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions; and

(4) Ensure failures or malfunctions that lead to local events in the aircraft do not result in hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, due to engine control system failures or malfunctions.

(g) *System safety assessment*. The applicant must perform a system safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure that the assessment of the engine control system safety is valid. The rates of hazardous and major faults must be documented in accordance with § 33.5.

(h) *Protection systems*. The engine control devices and systems' design and function, together with engine instruments, operating instructions, and

maintenance instructions, must ensure that engine operating limits that can lead to a hazard will not be exceeded in service.

(i) *Aircraft supplied data*. Any single failure leading to loss, interruption, or corruption of aircraft-supplied data (other than power-command signals from the aircraft), or aircraft-supplied data shared between engine systems within a single engine or between fully independent engine systems, must:

(1) Not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions, for any engine installed on the aircraft; and

(2) Be able to be detected and accommodated by the control system.

(j) *Engine control system electrical power*.

(1) The engine control system must be designed such that the loss, malfunction, or interruption of the control system electrical power source will not result in a hazardous engine effect, unacceptable transmission of erroneous data, or continued engine operation in the absence of the control function. Hazardous engine effects are defined in special condition no. 17(d)(2) of these special conditions. The engine control system must be capable of resuming normal operation when aircraft-supplied power returns to within the declared limits.

(2) The applicant must identify, document, and provide to the installer as part of the requirements in § 33.5, the characteristics of any electrical power supplied from the aircraft to the engine control system, including transient and steady-state voltage limits, and any other characteristics necessary for safe operation of the engine.

11. *Instrument Connection*: The applicant must comply with § 33.29(a), (e), and (g).

(a) In addition, as part of the system safety assessment of special condition nos. 10(g) and 33(h) of these special conditions, the applicant must assess the possibility and subsequent effect of incorrect fit of instruments, sensors, or connectors. Where practicable, the applicant must take design precautions to prevent incorrect configuration of the system.

(b) The applicant must provide instrumentation enabling the flight crew to monitor the functioning of the engine cooling system unless evidence shows that:

(1) Other existing instrumentation provides adequate warning of failure or impending failure;

(2) Failure of the cooling system would not lead to hazardous engine effects before detection; or

(3) The probability of failure of the cooling system is extremely remote.

12. *Stress Analysis:*

(a) A mechanical and thermal stress analysis, as well as an analysis of the stress caused by electromagnetic forces, must show a sufficient design margin to prevent unacceptable operating characteristics and hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions.

(b) Maximum stresses in the engine must be determined by test, validated analysis, or a combination thereof, and must be shown not to exceed minimum material properties.

13. *Critical and Life-Limited Parts:*

(a) The applicant must show, by a safety analysis or means acceptable to the Administrator, whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

(1) Critical part means a part that must meet prescribed integrity specifications to avoid its primary failure, which is likely to result in a hazardous engine effect as defined in special condition no. 17(d)(2) of these special conditions.

(2) Life-limited parts may include but are not limited to a rotor or major structural static part, the failure of which can result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions, due to a low-cycle fatigue (LCF) mechanism. A life limit is an operational limitation that specifies the maximum allowable number of flight cycles that a part can endure before the applicant must remove it from the engine.

(b) In establishing the integrity of each critical part or life-limited part, the applicant must provide the Administrator the following three plans for approval:

(1) an engineering plan, as defined in § 33.70(a);

(2) a manufacturing plan, as defined in § 33.70(b); and

(3) a service-management plan, as defined in § 33.70(c).

14. *Lubrication System:*

(a) The lubrication system must be designed and constructed to function properly between scheduled maintenance intervals in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) The lubrication system must be designed to prevent contamination of the engine bearings and lubrication system components.

(c) The applicant must demonstrate by test, validated analysis, or a combination thereof, the unique lubrication attributes and functional capability of (a) and (b).

15. *Power Response:*

(a) The design and construction of the engine, including its control system, must enable an increase:

(1) From the minimum power setting to the highest rated power without detrimental engine effects;

(2) From the minimum obtainable power while in-flight and while on the ground to the highest rated power within a time interval determined to be appropriate for the intended aircraft application; and

(3) From the minimum torque to the highest rated torque without detrimental engine effects in the intended aircraft application.

(b) The results of (a)(1), (a)(2), and (a)(3) of this special condition must be documented in accordance with § 33.5.

16. *Continued Rotation:* If the design allows any of the engine main rotating systems to continue to rotate after the engine is shut down while in-flight, this continued rotation must not result in any hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions.

17. *Safety Analysis:*

(a) The applicant must comply with § 33.75(a)(1) and (a)(2) using the failure definitions in special condition no. 17(d) of these special conditions.

(b) The primary failure of certain single elements cannot be sensibly estimated in numerical terms. If the failure of such elements is likely to result in hazardous engine effects, then compliance may be shown by reliance on the prescribed integrity requirements of § 33.15 and special condition nos. 9 and 13 of these special conditions, as applicable. These instances must be stated in the safety analysis.

(c) The applicant must comply with § 33.75(d) and (e) using the failure definitions in special condition no. 17(d) of these special conditions, and the ICA in § 33.4.

(d) Unless otherwise approved by the Administrator, the following definitions apply to the engine effects when showing compliance with this condition:

(1) A minor engine effect does not prohibit the engine from performing its intended functions in a manner consistent with § 33.28(b)(1)(i), (b)(1)(iii), and (b)(1)(iv), and the engine complies with the operability requirements of special condition no. 15, special condition no. 25 and special condition no. 31 of these special conditions, as appropriate.

(2) The engine effects in § 33.75(g)(2) are hazardous engine effects with the addition of:

(i) Electrocution of the crew, passengers, operators, maintainers, or others; and

(ii) Blockage of cooling systems that could cause the engine effects described in § 33.75(g)(2) and special condition 17(d)(2)(i) of these special conditions.

(3) Any other engine effect is a major engine effect.

(e) The intended aircraft application must be taken into account when performing the safety analysis.

(f) The results of the safety analysis, and the assumptions about the aircraft application used in the safety analysis, must be documented in accordance with § 33.5(c).

18. *Ingestion:*

(a) Rain, ice, and hail ingestion must not result in an abnormal operation such as shutdown, power loss, erratic operation, or power oscillations throughout the engine operating range.

(b) Ingestion from other likely sources (birds, foreign objects—ice slabs) must not result in unacceptable power or thrust loss, or hazardous engine effects defined by special condition no. 17(d)(2) of these special conditions, or unacceptable power loss.

(c) If the design of the engine relies on features, attachments, or systems that the installer may supply, for the prevention of unacceptable power loss or hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, following potential ingestion, then the features, attachments, or systems must be documented in accordance with § 33.5.

19. *Liquid and Gas Systems:*

(a) Each system used for lubrication or cooling of engine components must be designed and constructed to function properly in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) If a system used for lubrication or cooling of engine components is not self-contained, the interfaces to that system must be defined and documented in accordance with § 33.5.

(c) The applicant must establish by test, validated analysis, or a combination of both that all static parts subject to significant pressure loads will not:

(1) Exhibit permanent distortion beyond serviceable limits, or exhibit leakage that could create a hazardous condition when subjected to normal and maximum working pressure with margin;

(2) Exhibit fracture or burst when subjected to the greater of maximum possible pressures with margin.

(d) Compliance with special condition no. 19(c) of these special conditions must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse physical geometry conditions allowed by the type design, such as minimum material and minimum radii.

(e) Approved coolants and lubricants must be documented in accordance with § 33.5.

20. Vibration Demonstration:

(a) The engine must be designed and constructed to function throughout its operating range of rotational speeds and engine output power, including defined exceedances, without inducing excessive stress in any of the engine parts because of vibration and without imparting excessive vibration forces to the aircraft structure.

(b) Each engine design must undergo a vibration survey to establish that the vibration characteristics of those components subject to induced vibration are acceptable throughout the declared flight envelope and engine operating range for the specific installation configuration. The possible sources of the induced vibration that the survey must assess are mechanical, aerodynamic, acoustical, internally induced electromagnetic, installation induced effects that can affect the engine vibration characteristics, and likely environmental effects. This survey must be shown by test, validated analysis, or a combination thereof.

21. Overtorque: When approval is sought for a transient maximum engine overtorque, the applicant must demonstrate by test, validated analysis, or a combination thereof, that the engine can continue operation after operating at the maximum engine overtorque condition without maintenance action. Upon conclusion of overtorque tests conducted to show compliance with this special condition, or any other tests that are conducted in combination with the overtorque test, each engine part or individual groups of components must meet the requirements of special condition no. 29 of these special conditions.

22. Calibration Assurance: Each engine must be subjected to calibration tests to establish its power characteristics, and the conditions both before and after the endurance and durability demonstrations specified in

special condition nos. 23 and 26 of these special conditions.

23. Endurance Demonstration: The applicant must subject the engine to an endurance demonstration, acceptable to the Administrator, to demonstrate the engine's limit capabilities. The endurance demonstration must include increases and decreases of the engine's power settings, energy regeneration, and dwellings at the power settings and energy regeneration for sufficient durations that produce the extreme physical conditions the engine experiences at rated performance levels, operational limits, and at any other conditions or power settings, including energy regeneration, that are required to verify the limit capabilities of the engine.

24. Temperature Limit: The engine design must demonstrate its capability to endure operation at its temperature limits plus an acceptable margin. The applicant must quantify and justify the margin to the Administrator. The demonstration must be repeated for all declared duty cycles and ratings, and operating environments, which would impact temperature limits.

25. Operation Demonstration: The engine design must demonstrate safe operating characteristics, including but not limited to power cycling, starting, acceleration, overspeeding, and power response in accordance with special condition no. 15 of these special conditions, throughout its declared flight envelope and operating range. The declared engine operational characteristics must account for installation loads and effects.

26. Durability Demonstration: The engine must be subjected to a durability demonstration to show that each part of the engine has been designed and constructed to minimize any unsafe condition of the system between overhaul periods, or between engine replacement intervals if the overhaul is not defined. This test must simulate the conditions in which the engine is expected to operate in service, including typical start-stop cycles, to establish when the initial maintenance is required.

27. System and Component Tests: The applicant must show that systems and components that cannot be adequately substantiated in accordance with the endurance demonstration or other demonstrations will perform their intended functions in all declared environmental and operating conditions.

28. Rotor Locking Demonstration: If shaft rotation is prevented by locking the rotor(s), the engine must demonstrate:

(a) Reliable rotor locking performance;
(b) Reliable rotor unlocking performance; and

(c) That no hazardous engine effects, as specified in special condition no. 17(d)(2) of these special conditions, will occur.

29. Teardown Inspection:

(a) After the endurance and durability demonstrations have been completed, the engine must be completely disassembled. Each engine component and lubricant must be eligible for continued operation in accordance with the information submitted for showing compliance with § 33.4.

(b) Each engine component, having an adjustment setting and a functioning characteristic that can be established independent of installation on or in the engine, must retain each setting and functioning characteristic within the established and recorded limits at the beginning of the endurance and durability demonstrations.

(c) If a teardown cannot be performed for all engine components in a non-destructive manner, then the inspection or replacement intervals for these components and lubricants must be:

(1) established based on the endurance and durability demonstrations; and

(2) documented in the ICA in accordance with § 33.4.

30. Containment: The engine must be designed and constructed to protect against likely hazards from rotating components as follows:

(a) The design of the stator case surrounding rotating components must provide for the containment of the rotating components in the event of failure, unless the applicant shows that the margin to rotor burst precludes the possibility of a rotor burst.

(b) If the margin to burst shows that the stator case must have containment features in the event of failure, then the stator case must provide for the containment of the failed rotating components. The applicant must define by test, validated analysis, or a combination thereof, and document and provide to the installer as part of the requirements in § 33.5, the energy level, trajectory, and size of fragments released from damage caused by the main-rotor failure, and that pass forward or aft of the surrounding stator case.

31. Engine and Propeller Systems Test:

(a) An engine that is intended to be equipped with a propeller must be fitted for the endurance, durability, vibration and operation demonstrations with a representative propeller.

(b) For variable pitch propellers, the applicant must conduct functional

demonstrations including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, with a representative propeller.

(c) The demonstrations must be accomplished in accordance with (a) and (b) or otherwise performed in a manner acceptable to the Administrator.

32. General Conduct of Tests:

(a) Maintenance of the engine may be made during the tests in accordance with the service and maintenance instructions submitted in compliance with § 33.4.

(b) The applicant must subject the engine or its parts to any additional tests that the Administrator finds necessary if:

(1) The frequency of engine service is excessive;

(2) The number of stops due to engine malfunction is excessive;

(3) Major engine repairs are needed; or

(4) Replacement of an engine part is found necessary during the tests, or due to the teardown inspection findings.

(c) Upon completion of all demonstrations and testing specified in these special conditions, the engine and its components must be:

(1) Within serviceable limits;

(2) Safe for continued operation; and

(3) Capable of operating at declared ratings while remaining within limits.

33. Engine Electrical Systems:

(a) Applicability. Any system or device that provides, uses, conditions, or distributes electrical power, and is part of the engine type design, must provide for the continued airworthiness of the engine, and must maintain electric engine ratings.

(b) Electrical systems. The electrical system must ensure the safe generation and transmission of power, and electrical load shedding if load shedding is required, and that the engine does not experience any unacceptable operating characteristics or exceed its operating limits. Electrical wiring interconnection systems must be protected against arc faults that could result in hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions.

(c) Electrical power distribution.

(1) The engine electrical power distribution system must be designed to provide the safe transfer of electrical energy throughout the electric engine. The system must be designed to provide electrical power so that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions.

(2) The system must be designed and maintained to withstand normal and

abnormal conditions during all ground and flight operations.

(3) The system must provide mechanical or automatic means of isolating a faulted electrical energy generation or storage device from leading to hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, or detrimental effects in the intended aircraft application.

(d) Protection systems. The engine electrical system must be designed such that the loss, malfunction, interruption of the electrical power source, or power conditions that exceed design limits, will not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions.

(e) Electrical power characteristics. The applicant must document, and provide to the installer as part of the requirements in § 33.5, the characteristics of any electrical power supplied from:

(1) the aircraft to the engine electrical system, for starting and operating the engine, including transient and steady state voltage limits, and

(2) the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

(f) Environmental limits.

Environmental limits that cannot adequately be substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in special condition no. 27 of these special conditions.

(g) Electrical system failures. The engine electrical system must:

(1) Have a maximum rate of loss of power control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Ensure any electrical system failures or malfunctions that lead to local events in the intended aircraft application do not result in hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, due to electrical system failures or malfunctions.

(h) System safety assessment. The applicant must perform a system safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into

account to assure the assessment of the engine system safety is valid. The rates of hazardous and major faults must be documented in accordance with § 33.5.

Issued in Fort Worth, Texas, on March 13, 2026.

Jorge R. Castillo,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2026-05281 Filed 3-17-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-GLCA-NPS0041103; NPS-2024-0005; PPIMGLCAS0 PPMPAS12.Y00000 266P103601]

RIN 1024-AE91

Glen Canyon National Recreation Area; Motor Vehicles; Withdrawal

AGENCY: National Park Service; Interior.

ACTION: Final rule; withdrawal.

SUMMARY: This action withdraws a final rule that published on January 13, 2025. The National Park Service has terminated the rulemaking process.

DATES: The January 13, 2025, final rule (90 FR 2621) is withdrawn as of March 18, 2026.

FOR FURTHER INFORMATION CONTACT:

Jacob Ohlson, Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040, by phone at 928-608-6209, or by email at GLCA_Superintendent@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: On Friday, May 23, 2025, the President of the United States signed the following bill into law: H.J. Res. 60—Joint Resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Park Service relating to “Glen Canyon National Recreation Area: Motor Vehicles.” Public Law 119-13. The NPS published the final rule that was disapproved by H.R. Res. 60 on January 13, 2025 (90 FR 2621). The NPS delayed the effective date of the final rule on

February 13, 2025 (90 FR 9518) and on March 14, 2025, the NPS postponed the effective date of the final rule indefinitely, pending judicial review (90 FR 12108). The NPS now withdraws the final rule and terminates the rulemaking process due to its disapproval under the Congressional Review Act.

Kevin J. Lilly,

*Principal Deputy Assistant Secretary,
Exercising the Delegated Authority of the
Assistant Secretary for Fish and Wildlife and
Park.*

[FR Doc. 2026–05312 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260304–0062]

RIN 0648–BN62

Fisheries of the Caribbean, Gulf of America, and South Atlantic; Fishery Management Plans of St. Croix and St. Thomas and St. John; Queen Triggerfish Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to modify the annual catch limits (ACLs) for queen triggerfish in Federal waters around the U.S. Virgin Islands (USVI) as described in Framework Action 3 under the St. Croix Fishery Management Plan (FMP) and Framework Action 3 under the St. Thomas and St. John FMP (collectively Framework Action 3). The purpose of this final rule and Framework Action 3 is to update queen triggerfish management reference points under the St. Croix FMP and the St. Thomas and St. John FMP consistent with the most recent queen triggerfish stock assessments to prevent overfishing and achieve optimum yield (OY).

DATES: This final rule is effective April 17, 2026.

ADDRESSES: Electronic copies of Framework Action 3, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at [https://www.fisheries.noaa.gov/action/framework-action-3-under-st-croix-and-](https://www.fisheries.noaa.gov/action/framework-action-3-under-st-croix-and-st-thomas-and-st-john-fishery-management-plans)

st-thomas-and-st-john-fishery-management-plans.

FOR FURTHER INFORMATION CONTACT:

Sarah Stephenson, 727–824–5305, sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Caribbean Fishery Management Council (Council), manages the St. Croix fishery and the St. Thomas and St. John fishery under the St. Croix FMP and the St. Thomas and St. John FMP, respectively. NMFS implements the St. Croix FMP and the St. Thomas and St. John FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October 2, 2025, NMFS published a proposed rule to implement Framework Action 3 and requested public comment (90 FR 47713). The proposed rule and Framework Action 3 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Framework Action 3 and implemented by this final rule is described below.

All weights described in this final rule are in round weight.

Background

The Magnuson-Stevens Act requires NMFS to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

This action is taken under the statutory authority of the Magnuson-Stevens Act section 303(a)(1) as necessary and appropriate for the conservation and management of the fishery to prevent overfishing and to promote the long-term health and stability of the fishery.

The St. Croix FMP and St. Thomas and St. John FMP were approved by the Secretary of Commerce on September 22, 2020, along with the Puerto Rico FMP, under section 304(a)(3) of the Magnuson-Stevens Act. On September 13, 2022, NMFS published the final rule to implement the FMPs (87 FR 56204), which took effect on October 13, 2022. Each FMP contains management measures applicable for Federal waters off the respective island management area, including the current ACL values for the St. Croix and the St. Thomas and St. John queen triggerfish stocks. Queen triggerfish is managed as an individual stock under each FMP. Federal

regulations at 50 CFR part 622 subparts T and U describe management measures for St. Croix and for St. Thomas and St. John, respectively. Federal waters around St. Croix, St. Thomas, and St. John extend seaward from 3 nautical miles (5.6 kilometers) from shore of each island district to the offshore boundary of the U.S. Caribbean exclusive economic zone.

The St. Croix FMP and St. Thomas and St. John FMP established status determination criteria (SDC) and other management reference points for queen triggerfish in Federal waters around each management area. Each FMP applies a four-tiered acceptable biological catch (ABC) control rule depending on differing levels of data availability. Each tier specifies SDC, including the maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), and overfishing limit (OFL), or OFL proxy, and other reference points such as the maximum sustainable yield (MSY), or MSY proxy, and ABC. Under the ABC control rule, tier 1 applies to stocks with the most data available, and each subsequent tier operates with less available data than the preceding tier. Tier 4, the final tier, is the most data limited and applies when no accepted quantitative assessment is available. Tier 4 contains two sub-tiers, tier 4a and tier 4b, which are based on an understanding of the stock's vulnerability to fishing pressure. Tier 4a applies when the stock's vulnerability to fishing pressure is relatively low or moderate, while tier 4b applies to stocks with a high vulnerability to fishing pressure.

In both the St. Croix FMP and the St. Thomas and St. John FMP, queen triggerfish is considered a tier 4a stock. The MSY proxy, MFMT, and MSST were defined, but as a result of data limitations, were not quantified. Similarly, the OFL for each stock could not be quantified. As such, a new reference point, the sustainable yield level (SYL), was quantified and used as the OFL proxy. The SYL is a level of landings that can be sustained by a stock over the long-term. For queen triggerfish in each FMP, the Council's Scientific and Statistical Committee (SSC) derived the ABC from the SYL, and the Council recommended the ACL for each stock be equal to 95 percent of the SSC's recommended ABC. For each stock, the OY was set equal to the ACL.

Under the St. Croix FMP, the queen triggerfish ACL is 21,450 pounds (lb; 9,729.5 kilograms [kg]). Under the St. Thomas and St. John FMP, the queen triggerfish ACL is 97,670 lb (44,302.3 kg).

In 2024, the Southeast Data, Assessment, and Review (SEDAR) stock assessments were completed for queen triggerfish in St. Croix and in St. Thomas and St. John (SEDAR 80). The Council's SSC reviewed results from SEDAR 80 in April 2024, and determined that the stock assessments were suitable for short-term (*i.e.*, <5 years) management advice. The SSC recommended updated ABCs for the St. Croix and St. Thomas and St. John queen triggerfish stocks using tier 3b of the ABC control rule in each FMP. Under tier 3b, the ABC is derived from the OFL by applying a buffer to account for scientific uncertainty ($ABC = \text{buffer} * \text{OFL}$), where the buffer must be less than or equal to 0.9. The OFL values projected by the SEDAR 80 models used a fishing mortality rate at MSY (F_{MSY}) proxy based on a spawning potential ratio of 0.4. The constant catch at the F_{MSY} proxy was used to establish the ABC. The OFL values and buffers used to set the ABC from the OFL varied for years 2024 through 2027. The ABC values recommended for queen triggerfish in St. Croix and in St. Thomas and St. John for years 2024 through 2027 were a constant value.

Subsequent to the SEDAR 80 stock assessments and recommendations from the Council's SSC, NMFS and the Council developed Framework Action 3 to update management reference points for queen triggerfish under each FMP to prevent overfishing and achieve OY, consistent with the requirements of the Magnuson-Stevens Act. In Framework Action 3, the Council recommended no management uncertainty buffer be applied for the St. Croix queen triggerfish stock (*i.e.*, the ACL equals the ABC) and a 5 percent management uncertainty buffer for the St. Thomas and St. John queen triggerfish stock (*i.e.*, the ACL equals 95 percent of the ABC).

The Council recommended that the queen triggerfish ACL should be set equal to the ABC for St. Croix because of the low demand for the species and the harvest methods used by the fishery to collect reef fish (*e.g.*, mainly by spearfishing). The Council acknowledged that the demand for queen triggerfish in St. Thomas and St. John is greater than in St. Croix, and the gear used by fishermen who target the species (*i.e.*, trap gear) is less selective than spearfishing. Therefore, they decided to set the queen triggerfish ACL equal to 95 percent of the ABC to incorporate a degree of management uncertainty.

NMFS notes that Framework Action 3 includes recommended OFLs and ABCs for fishing year 2024. However, due to delays in development of the action and

implementation of the final rule, the SYL and ABC for queen triggerfish specified under the St. Croix FMP and the St. Thomas and St. John FMP were the OFL proxy and ABC effective for fishing year 2024.

Management Measures Contained in This Final Rule

This final rule revises the ACLs for queen triggerfish in Federal waters around St. Croix and St. Thomas and St. John. The queen triggerfish ACL in St. Croix will decrease from 21,450 lb (9,729.5 kg) to 18,808 lb (8,531 kg). The queen triggerfish ACL in St. Thomas and St. John will decrease from 97,670 lb (44,302.3 kg) to 92,919 lb (42,147 kg).

The updated ACLs, which are based upon the best scientific information available, are expected to better protect against the risk of overfishing the stock in relation to the current ACLs, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

Measures in Framework Action 3 Not Codified in This Final Rule

In SEDAR 80, long-term recruitment estimates for queen triggerfish were unknown, so MSY and $MSST$ values for St. Croix queen triggerfish and St. Thomas and St. John queen triggerfish were not quantified. Under Framework Action 3, for both FMPs, the MSY proxy definition changed from 30 percent to 40 percent of the spawning potential ratio, while the $MSST$ definition remained equal to 75 percent of the spawning stock biomass produced when fishing at MSY or MSY proxy.

In addition to the ACL revisions described in this final rule and consistent with SEDAR 80, Framework Action 3 revises the MFMT, OFL, and ABC values for queen triggerfish under the St. Croix FMP and the St. Thomas and St. John FMP.

The MFMT, previously not quantified, will be 0.14 for St. Croix queen triggerfish and 0.16 for St. Thomas and St. John queen triggerfish.

For St. Croix, the OFL values for queen triggerfish will decrease from the SYL (OFL proxy) of 45,158 lb (20,483 kg) to 22,773 lb (10,330 kg) in 2025, 22,316 lb (10,122 kg) in 2026, and 22,025 lb (9,990 kg) in 2027. The queen triggerfish ABC will decrease from 22,579 lb (10,242 kg) to 18,808 lb (8,531 kg).

For St. Thomas and St. John, the OFL values for queen triggerfish will decrease from the SYL (OFL proxy) of 205,641 lb (93,268 kg) to 193,378 lb (87,715 kg) in 2025, 166,220 lb (75,396 kg) in 2026, and 148,223 lb (67,233 kg) in 2027. The queen triggerfish ABC will

decrease from 102,810 lb (46,634 kg) to 97,809 lb (44,365 kg).

Consistent with SEDAR 80, the updated management reference points are expected to better protect against the risk of overfishing of the stock complex in relation to the current reference points, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

Comments and Responses

NMFS received three comments during the public comment period for the proposed rule for Framework Action 3. Two comments were in support of the actions in Framework Action 3, with one comment also recommending that NMFS and the Council enhance stakeholder engagement and increase the inclusion of local ecological knowledge in the stock assessment process. NMFS appreciates the information provided and agrees with those comments.

Issues listed within the third public comment are grouped as appropriate and summarized below, followed by NMFS' respective responses. NMFS has not made any changes from the proposed rule to this final rule based on public comment.

Comment 1: The specific scientific buffer(s) used to convert OFL to ABC for each queen triggerfish stock for years 2024 through 2027 should be clarified and there should be an explanation as to why the ABC across those years is held constant despite variable OFL projections (*i.e.*, show calculations).

Response: Framework Action 3 provided a reference to and contained a high-level description of the SEDAR 80 stock assessments while describing OFLs projected from the reference models. The scientific buffers between the OFL and the ABC can be calculated using the values included in table 1.2 in Framework Action 3 (*i.e.*, divide the ABC by the OFL). As described in Framework Action 3 and the proposed rule, the scientific uncertainty buffer must be less than or equal to 0.9. For queen triggerfish in St. Croix, the scientific buffers for years 2024–2027 range from 0.76 to 0.85. For queen triggerfish in St. Thomas and St. John, the scientific buffers for years 2024–2027 range from 0.34 to 0.66. The ABC was calculated from the model using an MSY proxy based on a spawning potential ratio of 0.4, which resulted in a constant value. The OFLs projected by the assessment model used in SEDAR 80 vary by year and reflect changes in model-estimated sustainability limits as the biomass approaches management reference points of biomass at MSY , or MSY proxy. The ABC and OFL values

described in Framework Action 3 were derived directly from the assessment model used in SEDAR 80. The results of SEDAR 80 were reviewed by the SSC, who subsequently recommended to the Council the queen triggerfish ABCs for St. Croix and St. Thomas and St. John.

Comment 2: It is not clear what reference points are used in comparison to queen triggerfish landings in 2024, including SYL, OFL, ABC, and ACL, and why those values are used instead of the SEDAR 80-derived values.

Response: The revised management references points included in Framework Action 3, which include the OFL, ABC, and ACL, will not be applicable for management until this final rule becomes effective. Therefore, for 2024, the management reference points applicable to the queen triggerfish stocks in St. Croix and St. Thomas and St. John are those specified in the St. Croix and St. Thomas and St. John FMPs and precede this current rulemaking. NMFS also notes that this final rule for Framework Action 3 is effective after December 31, 2025, and therefore, as applies for the 2024 values, the management reference points applicable for queen triggerfish in St. Croix and St. Thomas and St. John for 2025 are also those specified in the FMPs and not those specified in Framework Action 3. Regulations implemented under Framework Action 3 will not retroactively change management reference points for any years prior to its implementation.

Comment 3: The post-2019 price/revenue data is excluded from the RFA for Framework Amendment 3. Additionally, a sensitivity analysis using plausible post-2019 price scenarios should be provided to show whether the RFA conclusions about economic impacts would change when considering any years after 2019.

Response: As stated in the proposed rule and Framework Amendment 3, USVI price and revenue data after 2019 were not available for use in the RFA analysis and so were not included. Commercial catch reports for the USVI do not include price data for the reported species; thus, while some landings data after 2019 were available for analysis, corresponding price data were not. Additionally, as described in the RFA analysis in the proposed rule

and Framework Action 3, landings of queen triggerfish in both St. Croix and St. Thomas and St. John for years with price information available (2015–2019) and for more recent years (2020–2022) never reached or exceeded the current queen triggerfish ACLs or the revised values in Framework Action 3. The RFA analysis concluded there would be no impact on small businesses in St. Croix or St. Thomas and St. John from the change in ACLs. NMFS does not expect this conclusion to change with the availability of price and revenue data in years after 2019.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Framework Action 3, the FMPs for St. Croix and St. Thomas and St. John, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under Executive Order 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of Executive Order 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of Executive Order 13175 is not required and has not been prepared.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified

to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. Public comments relating to social and economic implications and potential impacts on small businesses are addressed in the response to *Comment 3* in the Comments and Responses section of this final rule. No changes to this final rule were made in response to this public comment. NMFS has not received any new information that would affect its determination that this rule would not have a significant economic impact on a substantial number of small entities. As a result, a final regulatory flexibility analysis was not required and none was prepared.

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

List of Subjects in 50 CFR Part 622

Caribbean, Fisheries, Fishing, Reef fish, Triggerfish.

Dated: March 4, 2026.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF AMERICA, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.480, amend paragraph (a)(1) by revising the table heading and the entry for “Triggerfishes” to read as follows:

§ 622.480 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Family	Stock or stock complex and species composition	ACL
* * *	* * *	* * *
Triggerfishes	Triggerfish—queen triggerfish	18,808 lb (8,531 kg).

* * * * *

■ 3. In § 622.515, amend paragraph (a)(1) by revising the table heading and

the entry for “Triggerfishes” to read as follows:

§ 622.515 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Family	Stock or stock complex and species composition	ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—queen triggerfish	92,919 lb (42,147 kg).
* * * * *	* * * * *	* * * * *

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[FR Doc. 2026–05251 Filed 3–17–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260210–0044]

RIN 0648–BN75

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Biennial Specifications; 2025–2026 and 2026–2027 Specifications for Pacific Mackerel

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

ACTION: Final rule.

SUMMARY: NMFS is implementing annual harvest specifications and management measures for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the West Coast for the fishing year July 1, 2025, through June 30, 2026, and the fishing year July 1, 2026, through June 30, 2027. These specifications include overfishing limits (OFL), allowable biological catch (ABC), annual catch limits (ACL), harvest guidelines (HG), and annual catch targets (ACT) for each respective fishing year. If the fishery attains the ACT for either fishing year, 8,143 metric tons (mt) for 2025–2026 or 9,448 mt for 2026–2027, the directed fishery will close, reserving the 1,000 mt difference between the HG and ACT as a set-aside for incidental landings in other coastal pelagic species (CPS) fisheries and other sources of mortality. The HG is 9,143 mt for 2025–2026 and 10,448 mt for 2026–2027. This rulemaking is made pursuant to the CPS Fishery Management Plan (FMP), and is intended to conserve and

manage the Pacific mackerel stock off the U.S. West Coast.

DATES: Effective April 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Laura Gray, West Coast Region, NMFS, (301) 427–8490, Laura.Gray@noaa.gov.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, NMFS manages the Pacific mackerel fishery in the U.S. EEZ off the West Coast in accordance with the CPS FMP. The CPS FMP and its implementing regulations (50 CFR 660.508) require NMFS to set annual harvest specifications for the Pacific mackerel fishery based on the annual specification framework and control rules in the FMP. The Pacific mackerel fishing season runs from July 1 to June 30. The purpose of this action is to implement harvest specifications for the 2025–2026 and 2026–2027 fishing seasons: OFL, ABC, ACL, HG, and ACT. This final rule adopts, without changes, the harvest specifications that NMFS proposed in the rule published on August 25, 2025 (90 FR 41376). The proposed rule for this action included additional background on the specifications and details on how the Pacific Fishery Management Council (Council) derived its recommended specifications for Pacific mackerel. Those details are not repeated here.

NMFS is implementing Pacific mackerel harvest specifications for both the 2025–2026 and 2026–2027 fishing seasons, as recommended by the Council (table 1). Any Pacific mackerel harvested between July 1, 2025, and the effective date of the final rule will count toward the 2025–2026 OFL, ABC, ACL, HG, and ACT. These harvest specifications are based on the OFL and ABC control rules established in the CPS FMP, recommendations from the Council’s Scientific and Statistical Committee (SSC) and other advisory bodies, and biomass estimates of 61,737 mt (2025–2026) and 67,954 mt (2026–

2027). The biomass estimates are the result of a catch-only stock assessment the NMFS Southwest Fishery Science Center (SWFSC) completed in March 2025. At the April 2025 Council meeting, the Council’s SSC reviewed and endorsed, and the Council adopted, the 2025 catch-only stock assessment and resulting biomass estimates as the best scientific information available for setting harvest specifications for the 2025–2026 and 2026–2027 Pacific mackerel fishing seasons. The uncertainty surrounding these biomass estimates for Pacific mackerel for the 2025–2026 and 2026–2027 fishing seasons was explicitly taken into consideration in the development of these harvest specifications.

TABLE 1—PACIFIC MACKEREL HARVEST SPECIFICATIONS FOR THE 2025–2026 AND 2026–2027 FISHING SEASONS

Harvest specifications	2025–2026 (mt)	2026–2027 (mt)
OFL	12,965	14,270
ACL = ABC	10,084	11,099
HG	9,143	10,448
ACT	8,143	9,448

Under this action, in the unlikely event that catch reaches the ACT in either fishing season, directed fishing would close, while the difference between the HG and ACT (1,000 mt) would be reserved as a set-aside for incidental landings in other fisheries and other sources of mortality.¹ For the remainder of the fishing season, incidental landings in CPS fisheries would be constrained to a 45 percent incidental catch allowance (in other words, no more than 45 percent by weight of the CPS landed per trip may be Pacific mackerel); and in non-CPS fisheries, up to 3 mt of Pacific mackerel

¹ Directed fishing for live bait and minor directed fishing is allowed to continue during a closure of the directed fishery.

incidental catch could be landed per fishing trip. The incidental catch set-aside is intended to allow continued operation of fisheries for other stocks, particularly other CPS stocks that may school with Pacific mackerel.

The Regional Administrator, NMFS West Coast Region, will publish a notice in the **Federal Register** announcing the date of any closure of directed fishing if and when harvest levels reach or exceed the ACT. Additionally, to ensure the regulated community is informed of any closure, NMFS will also make announcements through other means available, including by email to fishermen, processors, and state fishery management agencies.

The 30-day public comment period for the proposed rule (90 FR 41376, August 25, 2025) ended on September 24, 2025. Two comments in support of the rulemaking were received.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is exempt from the requirements of E.O. 14192 because it is a routine fishing action.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act. The factual basis for the certification was published in the proposed rule (90 FR 41376, August 25, 2025) and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 was not required for this final rule because this action does not impose substantial direct compliance costs on Indian Tribal Governments and this action does not preempt Tribal law. A Tribal summary impact statement has therefore not been prepared.

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

rules that may duplicate, overlap, or conflict with the proposed action.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 26, 2026.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.511, revise paragraphs (i)(1) and (2) to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(i) * * *

(1) For the Pacific mackerel fishing season July 1, 2025, through June 30, 2026, the harvest guideline is 9,143 mt and the ACT is 8,143 mt; and

(2) For the Pacific mackerel fishing season July 1, 2026, through June 30, 2027, the harvest guideline is 10,448 mt and the ACT is 9,448 mt.

* * * * *

[FR Doc. 2026–05252 Filed 3–17–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0067; RTID 0648–XF430]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet (15.2 meters (m)) length overall using hook-and-line (HAL) gear in the Central

Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2026 Pacific cod total allowable catch (TAC) allocated to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 16, 2026, through 1200 hours, A.l.t., September 1, 2026.

FOR FURTHER INFORMATION CONTACT:

Abby Jahn, 907–586–7228.

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

The A season allowance of the 2026 Pacific cod TAC allocated to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA is 1,160 metric tons (mt) as established by the final 2025 and 2026 harvest specifications for groundfish in the GOA (90 FR 12468, March 18, 2025) and the inseason adjustment (91 FR 5858, February 10, 2026).

In accordance with § 679.20(d)(1)(i), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2026 Pacific cod TAC allocated to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA will be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,060 mt and is setting aside the remaining 100 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been or will be reached. Consequently, NMFS is prohibiting directed fishing for catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA to prevent exceeding this sector's A season allowance of Pacific cod TAC.

While this closure is effective the maximum retainable amounts at

§ 679.20(e) and (f) apply at any time during a trip.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment

would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data on Pacific cod catch in a timely fashion and would delay the closure of directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the A season in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific cod catch only became available as of March 13, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 14, 2026.

David R. Blankinship,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–05266 Filed 3–16–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 52

Wednesday, March 18, 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 AGRICULTURE

Agricultural Marketing Service

9 CFR Part 201

[Doc. No. AMS–FTPP–22–0046]

RIN 0581–AE54

Poultry Grower Payment Systems and Capital Improvement Systems; Delay of Effective Date

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed delay of effective date; request for comments.

SUMMARY: The Agricultural Marketing Service (AMS or the Agency) is proposing to delay the effective date of the Poultry Grower Payment Systems and Capital Improvement Systems final rule published in the **Federal Register** on January 16, 2025, to allow time for further consideration of possible actions that may be taken regarding the disposition of the rule. The current effective date is July 1, 2026. AMS is proposing to delay the effective date to December 31, 2027.

DATES: Comments on this proposed rule must be received on or before April 17, 2026.

ADDRESSES: Comments can be submitted through the Federal e-rulemaking portal at <https://www.regulations.gov> and should reference the docket number and the date and page number of this issue of the **Federal Register**. AMS prefers comments be submitted electronically. However, written comments may be submitted (*i.e.*, postmarked) via mail to Docket No. AMS–FTPP–22–0046, Jeana Harbison, Acting Director, Packers and Stockyards Division, USDA, AMS, FTPP Room 2097–S, Mail Stop 3601, 1400 Independence Ave. SW, Washington, DC 20250–3601. All comments submitted in response to this proposed action will be included in the record and will be made available to the public. Please be advised the identity of individuals or entities submitting comments will be made public on the

internet at the address provided above. Parties who wish to comment anonymously may do so by entering “N/A” in the fields identifying the commenter. Comments are posted to [regulations.gov](https://www.regulations.gov) as submitted, without change. As required by 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is also available on the Federal e-rulemaking portal.

FOR FURTHER INFORMATION CONTACT:

Jeana Harbison, Acting Director, Packers and Stockyards Division, USDA, AMS, Fair Trade Practices Program, 1400 Independence Ave. SW, Washington, DC 20250; telephone: 202–720–7051; email: Jeana.M.Harbison@usda.gov.

SUPPLEMENTARY INFORMATION:

A. Background

On January 16, 2025, AMS published the final rule, “Poultry Grower Payment Systems and Capital Improvement Systems” (Payment Systems rule or final rule) (90 FR 5146, January 16, 2025.), to amend 9 CFR part 201 of its regulations under the Packers and Stockyards Act (P&S Act) (7 U.S.C. 181 *et seq.*). The final rule was promulgated in support of Executive Order 14036 (86 FR 36987, July 14, 2021), which Executive Order 14337 revoked on August 13, 2025 (90 FR 40227, August 19, 2025).

The final rule: (1) prohibits livestock poultry dealers (LPDs) from reducing a grower’s compensation based on the grower’s ranking under a poultry grower ranking system; (2) establishes a presumptive violation of the P&S Act by LPDs when aggregate gross annual payments based upon a grower’s ranking under a poultry grower ranking system exceeds a certain threshold; (3) holds LPDs to a duty of fair comparison when designing and operating their poultry grower ranking system and requires documentation of compliance with that duty; and (4) requires LPDs to provide certain disclosures when requesting or requiring that broiler growers make additional capital investments.

At the time of publication, AMS estimated the final rule would result in significant costs to both LPDs and poultry growers with no quantifiable benefits.¹ AMS acknowledged it could not rule out the possibility of increased

compliance costs, fewer growers participating in the market, and/or reduced production efficiencies, all of which could lead to higher consumer prices.²

In the explanatory statement accompanying the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026 (Pub. L. 119–37),³ Congress encouraged the Department to delay implementation of the final rule.⁴

In alignment with Congressional direction, and given the significant estimated costs, and the policy and legal issues associated with the final rule, AMS is seeking public comment on delaying the effective date of the final rule to December 31, 2027, to allow for thorough consideration of these matters.

B. Executive Order 12866

This proposed rule has been determined to be “significant” under Executive Order 12866, as supplemented by Executive Orders 13563 and 14192, and, therefore, has been accordingly reviewed by the Office of Management and Budget (OMB). As a required part of the regulatory process, AMS prepared an economic analysis of the costs and benefits of delaying the effective date of §§ 201.106, 110, 112, and 290.

AMS proposes to delay the effective date of the Payment Systems rule. The Payment Systems rule created four specific provisions including: § 201.106 regarding LPD responsibilities for the design of broiler grower compensation arrangements; § 201.110 regarding the fair operation of broiler grower ranking systems; § 201.112 regarding disclosure requirements for LPDs when requesting additional capital investments from

² See *id.* at 5198–9.

³ Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37, 139 Stat. 495 (November 12, 2025).

⁴ 171 Cong. Rec. S8047 (daily ed. November 9, 2025) (Explanatory Statement Submitted by Ms. Collins, Chair of the Senate Committee on Appropriations, Regarding H.R. 5371, the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026) (“The agreement encourages the Department to delay implementation of the final rule entitled ‘Poultry Grower Payment Systems and Capital Improvement Systems’, published by the Department of Agriculture in the **Federal Register** on January 16, 2025 (90 FR 5146 *et seq.*).”)

¹ See “Poultry Grower Payment Systems and Capital Improvement Systems,” 90 FR 5146, 5196, 5201, January 16, 2025.

broiler growers; and § 201.290 regarding severability.

Reason for the Proposed Rule

AMS is proposing to delay the effective day of the Payment Systems rule to allow for thorough consideration of estimated costs and the policy and legal issues associated with the final rule.

When AMS finalized the Payment Systems rule, AMS explained there was uncertainty as to whether the benefits would outweigh the costs.⁵ One factor that was difficult to determine was whether the provision that prevents LPDs from applying performance discounts (§ 201.106(a)) and the provision capping variation in performance premiums (§ 201.106(b)) would impact grower incentives. Research indicates growers tend to raise broilers more efficiently with tournament contracts than with other forms of contracts or when LPDs raise broilers in their own facilities.⁶ However, there is no literature addressing how growers' incentives might change if performance discounts were not part of the tournament or if variability in performance payments were limited. If changes to tournament contracts due to the Payment Systems rule's amendments to subpart N result in even very small decreases in feed efficiency, costs from implementation of the amendments could be considerably larger than the value of the benefits to growers due to reduced variability in compensation.

Benefit-Cost Analysis

AMS prepared an economic analysis of the costs and benefits of delaying the effective date of §§ 201.106, 110, 112, and 290. AMS estimated cost and benefits associated with the Payment Systems rule when it was made final in 2025. AMS provided quantitative estimates of direct administrative costs associated with the Payment Systems rule, and qualitative descriptions of indirect costs and benefits. This analysis

follows the same analytical approach used in the final rule. AMS invites comments and data concerning the benefits and costs of delaying the effective date of the Payment Systems rule.

The updated estimates incorporate the latest industry parameters and wage rates while maintaining consistency with the methodology used. Hourly wage rates were established using the following Bureau of Labor Statistics (BLS) classifications for each labor category as follows (NAICS Code—OCC code—OCC Title): Management (3116—11—1020—General and Operations Managers) for live poultry dealers' managers, and Legal (3110—23—1011—Lawyers) for attorneys.⁷ The average hourly wage rates used to estimate cost savings were updated from the final rule to include a 42.34 percent markup for benefits and are as follows: Management—\$102.56, Legal—\$145.93, Administrative—\$48.38, and Information Technology—\$101.72. For reference, the analysis in the final rule is described in detail in the **Federal Register** at 90 FR 5146 (see pages 5189–5206).⁸

AMS expects that LPDs would incur \$4.9 million in ongoing administrative costs for each of the first four years after the Payment Systems rule becomes effective and \$4.1 million annually thereafter. Poultry growers would have approximately \$249,000 in ongoing quantified administrative costs each year. Total ongoing administrative costs would be \$5.2 million for the four years and \$4.3 million thereafter.

Regulatory Alternatives Considered

AMS considered three alternatives to the proposed delay of §§ 201.106, 110, 112, and 290. The first alternative is the “do nothing” approach or maintaining the *status quo*. All regulations under the Packers and Stockyards Act would remain unchanged; that is, the Payment Systems rule would become effective on July 1, 2026. This first alternative forms the baseline against which AMS compares the other alternatives.

The second alternative is this proposed rule. AMS proposes to delay the effective date of the Payment

Systems rule for 18 months. If finalized, the Payment Systems rule would become effective on December 31, 2027, rather than July 1, 2026.

AMS considered a third alternative, the 12-Month Delay alternative, which is similar to the preferred alternative, and proposes to delay the effective date of §§ 201.106, 110, 112, and 290 by 12 months (July 1, 2027) instead of 18 months (December 31, 2027).

Direct Quantified Benefits of the Proposed 18-Month Delay of §§ 201.106, 110, 112, and 290—Preferred Alternative

With the proposed 18-month delay of the Poultry Systems rule, much of the first-year costs in the final rule that AMS considered are one-time setup and preparation activities that processors and growers would incur before the rule became effective. AMS believes many of these costs have likely already occurred, and therefore they are not affected by the delay; however, AMS welcomes comments for the industry related to these costs during the comment period of this proposed rule. The delay would affect recurring costs. The delay would save live poultry growers and LPDs administrative costs associated with the ongoing administrative costs that would otherwise occur in the first 18 months after the Payment Systems rule becomes effective.

Delaying the effective date for 18 months would shift all costs for both LPDs and growers back by 18-months. This proposed rule would enable LPDs to save \$4.9 million and poultry growers to save \$249,000 in administrative costs for a total of \$5.2 million in the first year. They would save an additional \$2.5 million and \$125,000, respectively, in the second year for a total of \$7.7 million. Administrative costs for LPDs were expected to decrease by \$800,000 in the fifth year after the rule became effective. If the effective date is delayed 18 months, the decrease in costs will be delayed as well. Costs would be \$800,000 higher in the fifth year and \$400,000 in the sixth year for LPDs. This would result in a ten-year total cost savings of \$6.1 million for LPDs and \$374,000 for poultry growers; a combined savings of \$6.5 million. Table 1 below summarizes cost savings to poultry growers and LPDs if the effective date of the Payment Systems rule is delayed until December 31, 2027.

⁵ See “Poultry Grower Payment Systems and Capital Improvement Systems,” 90 FR 5202, January 16, 2025.

⁶ Knoeber, Charles R. and Walter N. Thurman. “Testing the Theory of Tournaments: An Empirical Analysis of Broiler Production.” *Journal of Labor Economics* 12 (April 1994). Levy, Armando and Tomislav Vukina. “The League Composition Effect in Tournaments with Heterogeneous Players: An Empirical Analysis of Broiler Contracts.” *Journal of Labor Economics* 22 (2004).

⁷ U.S. Bureau of Labor Statistics, *May 2024 National Occupational Employment and Wage Estimates*, May 2024, <https://www.bls.gov/oes/special.requests/oesm24all.zip>.

⁸ See “Poultry Grower Payment Systems and Capital Improvement Systems,” 90 FR 5190, January 16, 2025.

TABLE 1—QUANTIFIED BENEFITS FROM SAVINGS IN ADMINISTRATIVE COSTS FOR LPDs, AND POULTRY GROWERS FROM DELAYING THE EFFECTIVE DATE OF THE PAYMENTS SYSTEMS RULE FOR 18 MONTHS

Value	Growers (\$)	LPDs (\$)	Total (\$)
First-Year	249,000	4,902,000	5,151,000
Ten-Year Total	374,000	6,146,000	6,520,000
NPV discounted at 3%	360,000	6,038,000	6,398,000
NPV discounted at 7%	342,000	5,880,000	6,222,000
Annualized NPV discounted at 3%	42,000	708,000	750,000
Annualize NPV discounted at 7%	49,000	837,000	886,000

Indirect Cost Savings/Benefits of the 18-Month Delay of §§ 201.106, 110, 112 and 290—Preferred Alternative

The indirect benefits (cost savings) of this proposed rule represent the indirect benefits incurred during the 18-month period of the delay of the effective date. AMS expects that §§ 201.106, 110, and 112 include provisions that may require LPDs to change their existing business practices, which has the potential to affect the indirect costs of the Payment Systems rule. As discussed in the Payment Systems rule, AMS does not have sufficient data to make an inference on the number of complexes that would need to change business practices or the magnitude of any changes that would be required.⁹

If LPDs modify existing grower compensation structures in response to § 201.106, changes in performance-based payments could adversely affect grower performance incentives and cause growers to produce broilers less efficiently. As a result, LPDs could face increased production costs. Even a very small change in efficiency could result in relatively large increases in the cost of producing broilers. Those costs could be passed on to consumers.

If AMS enforcement of § 201.112 has the effect of preventing broiler growers from making additional capital investments, then such decisions to forgo investment will likely result in fewer benefits for LPDs, and more for growers. AMS is not able to quantify these lost benefits (costs) to LPDs.

As the preferred alternative proposes to delay the effective date of the Payment Systems rule for 18 months, LPDs and growers may experience indirect benefits proportional to this delay, though AMS expects these indirect benefits to be small relative to the benefits associated with the Payments Systems rule.

Indirect Costs/Foregone Benefits of the 18-Month Delay of §§ 201.106, 110, 112 and 290—Preferred Alternative

There are unquantifiable benefits to the provisions regulating LPDs in §§ 201.106, 110, and 112, which would be foregone in the 18-month period in which the Payment Systems rule would be delayed under the preferred alternative. Section 201.106 could benefit growers from increased clarity and certainty about the lowest possible revenue and reduce variability in outcomes under a growing arrangement. Section 201.110 may benefit broiler growers through improved fairness in comparison. Section 201.112 may provide broiler growers with better information to make financial decisions. The size of these unquantifiable benefits would be directly related to the extent of these reductions. However, AMS does not have sufficient data to make an inference on the number of complexes that would change business practices or the magnitude of any changes that would be required.

AMS expects broiler growers would benefit from the Payment Systems rule,

though AMS is unable to predict the size of these benefits with certainty. The indirect benefits of the Payment Systems rule would still occur, they would just be delayed by 18 months. Thus, broiler growers would experience unquantifiable costs (foregone benefits) proportional to this delay, though AMS expects these unquantifiable costs to be small.

Direct Cost Savings/Benefits of the 12-Month Delay Alternative

AMS also evaluated benefits and costs of delaying the effective date for 12 months (12-Month Delay Alternative). The 12-Month Delay Alternative is similar to the proposed alternative, but the effective date of the Payment Systems rule would be delayed 12 rather than 18 months. Under the 12-Month Delay Alternative all costs for both LPDs and growers would be shifted back by one year, resulting in a savings to LPDs of \$4.9 million and poultry growers of \$249,000 in administrative costs for a total of \$5.2 million in savings. Because administrative costs for LPDs were expected to decrease in the fifth year after the rule became effective, costs in the fifth year would be \$800,000 higher for LPDs if the effective date is delayed 12 months. The ten-year total direct administrative cost savings would be \$4.3 million for the 12-Month Delay Alternative. The table below contains estimated administrative cost savings for LPDs and poultry growers for the 12-Month delay Alternative.

TABLE 2—QUANTIFIED BENEFITS FROM SAVINGS IN ADMINISTRATIVE COSTS FOR LPDs AND POULTRY GROWERS FROM DELAYING THE EFFECTIVE DATE OF THE PAYMENTS SYSTEMS RULE FOR 12 MONTHS

Value	Growers (\$)	LPDs (\$)	Total (\$)
First-Year	249,000	4,902,000	5,151,000
Ten-Year Total	249,000	4,097,000	4,347,000
NPV discounted at 3%	242,000	4,065,000	4,307,000
NPV discounted at 7%	233,000	4,007,000	4,241,000
Annualized NPV discounted at 3%	28,000	477,000	505,000
Annualize NPV discounted at 7%	33,000	571,000	604,000

⁹ See “Poultry Grower Payment Systems and Capital Improvement Systems,” 90 FR 5198, January 16, 2025.

Indirect Benefits/Cost Savings of the 12-Month Delay Alternative

As in the case of the preferred alternative, the indirect benefits of the 12-Month Delay Alternative represent the indirect costs not incurred during the 12-month period of the delay of the effective date. The indirect costs of the final rule would still occur, they would just be delayed. Again, AMS cannot rule out the possibility that incentives may be affected by the Payment Systems rule, and AMS is unable to predict specific effects with certainty. LPDs and growers may experience indirect benefits (cost savings) proportional to this 12-month delay, though AMS expects these indirect benefits to be very small. Because the proposed delay is shorter, AMS expects the indirect benefits of 12-Month Delay Alternative to be smaller than the indirect benefits of the preferred alternative.

Unquantifiable Direct Costs Incurred of the 12-Month Delay Alternative

As with the preferred alternative, a 12-month delay of the effective date of the provisions regulating LPDs in §§ 201.106, 110, and 112 would likely impose additional unquantifiable direct costs on LPDs. The nature of these unquantifiable direct costs is the same as in the preferred alternative, but these costs may be smaller do to the shorter proposed delay of the effective date of the Payment Systems rule.

Costs/Foregone Benefits of the 12-Month Delay Alternative

The nature of the costs (benefits foregone) under 12-Month Delay Alternative are the same as under the preferred alternative. As in the case of the preferred alternative, the costs of the 12-Month Alternative Delay represent the benefits not incurred during the period of the proposed delay of the effective date. The benefits of the final rule would still occur, they would just be delayed. As the 12-Month Delay Alternative represents a shorter delay, AMS expects the costs of 12-Month Delay Alternative to be smaller than the costs of the preferred alternative.

Comparison of Alternatives

The benefits and costs of delaying the effective date of the Payments Systems rule are very similar, but all costs and benefits are slightly smaller for the 12-Month Delay Alternative. AMS invites

comments and data concerning the benefits and costs of delaying the effective date of the Payment Systems rule.

AMS is proposing to delay the effective date of the Payment Systems rule to allow for thorough consideration of estimated costs and the policy and legal issues associated with the final rule. Because twelve months may not provide adequate time for the thorough consideration needed, AMS chose the preferred alternative of proposing to delay the effective date by 18 months.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market.

AMS is proposing to delay implementation of the Payment Systems rule which added §§ 201.106, 110, 112 and 290 to the regulations under the P&S Act. Sections 201.106, 110, and 112 would regulate LPDs that contract with poultry growers to raise broilers. The regulations would have no effect on LPDs that contract or process turkeys, geese, ducks or other fowl unless they also contract or process broilers. Currently, the Payment Systems rule is scheduled to go into effect on July 1, 2026. This proposed rule would delay implementation until December 31, 2027.

The final rule: (1) prohibits livestock poultry dealers (LPDs) from reducing a grower's compensation based on the grower's ranking under a poultry grower ranking system; (2) establishes a presumptive violation of the P&S Act by LPDs when aggregate gross annual payments based upon a grower's ranking under a poultry grower ranking system exceeds a certain threshold; (3) holds LPDs to a duty of fair comparison when designing and operating their poultry grower ranking system and requires documentation of compliance with that duty; and (4) requires LPDs to provide certain disclosures when requesting or requiring that broiler growers make additional capital investments.

When AMS finalized the Payment Systems rule, AMS explained there was

uncertainty as to whether the benefits would outweigh the costs.¹⁰ There is no literature addressing how growers' incentives might change if performance discounts were not part of the tournament or if variability in performance payments were limited.

AMS is proposing to delay the effective day of the Payment Systems rule to allow for thorough consideration of estimated costs and the policy and legal issues associated with the final rule.

The only firms that the Payment Systems rule directly regulates are LPDs. The SBA defines small businesses by their North American Industry Classification System Codes (NAICS). LPDs, NAICS 311615, are considered small businesses if they have fewer than 1,250 employees.¹¹

AMS maintains data on LPDs from the annual reports¹² these firms file with AMS. AMS records of annual reports identified 45 LPDs that processed broilers subject to the regulations during fiscal year 2023. Twenty-four of the LPDs were small businesses according to the SBA standard.

Delaying implementation of the Payment Systems rule would not cause significant costs for any LPD. LPDs would still be required to comply with §§ 201.106, 110, and 112 of the regulations, but would have until December 31, 2027, to do so. The regulations place restrictions on the way LPDs' contract with growers. Delaying implementation would give LPDs more time to make changes to their business practices to comply with the new regulations. No LPD, whether small or large, would be required to change any practices as result of this proposed regulatory action. No LPD, whether small or large, would be required to change any practices as result of this proposed regulatory action. Rather, LPDs are expected to benefit from the delay of the effective date for §§ 201.106, 110, 112, and 290 due to the cost savings incurred.

¹⁰ See "Poultry Grower Payment Systems and Capital Improvement Systems," 90 FR 5198, January 16, 2025.

¹¹ 13 CFR part 121.

¹² Live poultry dealers are required to file form PSD 3002, "Annual Report of Live Poultry Dealers" (OMB Control No. 0581–0308), with AMS.

In evaluating direct cost savings from delaying the Payment Systems rule, AMS follows the same analytical approach used in the final rule. The updated estimates incorporate the latest industry parameters and wage rates while maintaining consistency with the methodology used. Hourly wage rates were established using the following BLS classifications for each labor category as follows (NAICS Code—OCC code—OCC Title): Management (3116—11—1020—General and Operations Managers) for live poultry dealers' managers, and Legal (3110—23—1011—Lawyers) for attorneys.¹³ The average hourly wage rates used to estimate cost savings were updated from the final rule to include a 42.34 percent markup for benefits and are as follows: Management—\$102.56, Legal—\$145.93, Administrative—\$48.38, and Information Technology—\$101.72. For reference, the analysis in the final rule is described in detail in the **Federal Register** at 90 FR 5146 (see pages 5189–5206).¹⁴

Direct Cost Savings/Benefits to Small LPDs of the Proposed 18-Month Delay of §§ 201.106, 110, 112, and 290—Preferred Alternative

With the proposed 18-month delay of the Poultry Systems rule, much of the first-year costs in the final rule that AMS considered are one-time setup and preparation activities that processors

would incur before the rule became effective. AMS believes many of these costs have likely already occurred, and therefore they are not affected by the delay; however, AMS welcomes comments from the industry related to these costs during the comment period of this proposed rule.

The delay would affect recurring costs. Delaying the effective date of the final rule will enable LPDs to avoid annual administrative costs that would otherwise occur in the first 18 months after the Payment Systems rule becomes effective. Delaying the effective date for 18 months would shift all costs for small LPDs back by 18 months. This proposed rule would enable small LPDs to save \$587,000 in administrative costs in the first year after July 1, 2026, which is the first year after the rule would otherwise become effective. They would save an additional \$294,000 in the second year for a total of \$881,000. Administrative costs for small LPDs were expected to decrease by \$72,000 in the fifth year after the rule became effective. If the effective date is delayed, the decrease in costs will be delayed as well, and costs in the fifth year would be \$72,000 higher for small LPDs. These lower administrative costs were expected to continue in the sixth year after the rule became effective. If the effective date is delayed, the decrease in costs for the first half of the sixth year will also be delayed, and costs in the

sixth year would be \$36,000 higher for small LPDs. This would result in a ten-year total cost savings of \$773,000 for small LPDs. Column three in table 3 below summarizes cost savings to small LPDs if the effective date of the Payment Systems rule is delayed until December 31, 2027.

Direct Cost Savings/Benefits of the 12-Month Delay Alternative

AMS also evaluated benefits and costs of delaying the effective date for 12 months (12-Month Delay Alternative). The 12-Month Delay Alternative is similar to the proposed alternative, but the effective date of the Payment Systems rule would be delayed 12 rather than 18 months. Under the 12-Month Delay Alternative all costs for small LPDs would be shifted back by one year, resulting in savings to small LPDs of \$587,000 in administrative costs. Because administrative costs for small LPDs were expected to decrease in the fifth year after the rule became effective, costs in the fifth year would be \$72,000 higher for small LPDs if the effective date is delayed 12 months. The ten-year total direct administrative cost savings would be \$515,000 for the 12-Month Delay Alternative. Column two in table 3 below contains estimated administrative cost savings for small LPDs for the 12-Month Delay Alternative.

TABLE 3—QUANTIFIED BENEFITS FROM SAVINGS IN ADMINISTRATIVE COSTS FOR SMALL LPDs FROM DELAYING THE EFFECTIVE DATE OF THE PAYMENTS SYSTEMS RULE FOR 12 AND 18 MONTHS

Value	12-Month delay (\$)	18-Month delay (\$)
All Small LPDs Combined:		
First-Year	587,000	587,000
Ten-Year Total	515,000	773,000
NPV discounted at 3%	508,000	755,000
NPV discounted at 7%	497,000	730,000
Annualized NPV discounted at 3%	60,000	88,000
Annualized NPV discounted at 7%	71,000	104,000
Per Entity:		
First-Year	24,000	24,000
Ten-Year Total	21,000	32,000
NPV discounted at 3%	21,000	31,000
NPV discounted at 7%	21,000	30,000
Annualized NPV discounted at 3%	2,000	4,000
Annualized NPV discounted at 7%	3,000	4,000

Threshold Analysis

LPDs report net sales in Annual Reports to AMS.¹⁵ While net sales are not the same as annual revenue, unless the small LPDs have diversified income,

net sales is a reasonable substitute for annual revenue. Table 4 below groups small LPDs' net sales into quartiles, reports the average net sales in each quartile, and compares average net sales to average expected cost savings from

delaying the Payment Systems rule for 18 months. If a significant impact is defined as 1 percent of net sales and a substantial number is 25 percent (6 firms) of the small businesses, expected direct cost savings resulting from

¹³ U.S. Bureau of Labor Statistics, *May 2024 National Occupational Employment and Wage Estimates*, May 2024, <https://www.bls.gov/oes/special.requests/oesm24all.zip>.

¹⁴ See "Poultry Grower Payment Systems and Capital Improvement Systems," 90 FR 5190, January 16, 2025.

¹⁵ Live poultry dealers are required to file form PSD 3002, "Annual Report of Live Poultry Dealers" (OMB Control No. 0581–0308), with AMS.

delaying the effective date of the Payment Systems rule 18 months would not be significant. Savings would be

largest for the smallest quartile, but not significant. First-year cost savings for the smallest quartile would be 0.24

percent of net revenues. Annualized savings are less than the first-year cost savings.

TABLE 4—COMPARISON OF SMALL LIVE POULTRY DEALERS' NET SALES TO EXPECTED DIRECT COST SAVINGS FROM DELAYING THE EFFECTIVE DATE OF PAYMENT SYSTEMS RULE FOR 18 MONTHS

Quartile	Average net sales	First-year total as a percent of net sales	Ten year NPV annualized at 3 percent as a percent of net sales	Ten year NPV annualized at 7 percent as a percent of net sales
0 to 25%	\$10,017,311	0.244	0.037	0.043
25 to 50%	34,567,539	0.071	0.011	0.012
50 to 75%	92,380,634	0.026	0.004	0.005
75 to 100%	226,958,521	0.011	0.002	0.002

Data in the table do not account for indirect cost savings related to delaying the effective date of the Payment Systems rule. If LPDs modify existing grower compensation structures in response to § 201.106, changes in performance-based payments could adversely affect grower performance incentives and cause growers to produce broilers less efficiently. As a result, LPDs could face increased production costs. If AMS enforcement of § 201.112 has the effect of preventing broiler growers from making additional capital investments, then such decisions to forgo investment would likely result in fewer benefits for LPDs.

As the preferred alternative proposes to delay the effective date of the

Payment Systems rule for 18 months, LPDs and growers may experience indirect benefits proportional to this delay. However, AMS was not able to quantify these indirect benefits. After adding the indirect benefits with the direct cost savings, the benefits of delaying the effective date of the Payment Systems rule could be significant for a substantial number of LPDs.

12-Month Delay Alternative

Benefits of the 12-Month Delay alternative would be very similar to the preferred alternative, but because the delay is shorter, the benefits to LPDs would be less. The table below indicates that neither first-year cost savings to

LPDs nor annualized cost savings would be greater than one percent of average net sales for any quartile. Table 5 below has direct cost savings as percentage of average net sales for growers in each quartile.

As with the preferred alternative, LPDs would likely experience indirect benefits from delaying the effective date of the Payment Systems rule. The benefits would be similar to those associated with the preferred alternative, but because the time delay is shorter in the 12-Month Delay alternative, the benefits would be less than the benefits associated with the preferred alternative.

TABLE 5—COMPARISON OF SMALL LIVE POULTRY DEALERS' NET SALES TO EXPECTED DIRECT COST SAVINGS FROM DELAYING THE EFFECTIVE DATE OF PAYMENT SYSTEMS RULE FOR 12 MONTHS

Quartile	Average net sales	First-year total as a percent of net sales	Ten year NPV annualized at 3 percent as a percent of net sales	Ten year NPV annualized at 7 percent as a percent of net sales
0 to 25%	\$10,017,311	0.244	0.025	0.029
25 to 50%	34,567,539	0.071	0.007	0.009
50 to 75%	92,380,634	0.026	0.003	0.003
75 to 100%	226,958,521	0.011	0.001	0.001

After combining the direct and indirect benefits, LPDs would gain more from the preferred alternative, but the difference between the alternatives is small relative to the costs and benefits associated with Payment Systems rule. AMS is proposing to delay the effective date of the Payment Systems rule to allow for thorough consideration of estimated costs and the policy and legal issues associated with the final rule. Because twelve months may not provide adequate time for the thorough consideration needed, AMS chose the preferred alternative of proposing to delay the effective date by 18 months.

AMS does not expect direct cost savings to be significant for a substantial number of LPDs. However, AMS is uncertain of the size of unquantified indirect benefits. If they are added to the quantified savings, benefits could be significant for substantial number of small LPDs. AMS invites comments and data concerning the benefits and costs of delaying the effective date of the Payment Systems rule.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), AMS requested OMB approval of the new information

collection and recordkeeping requirements related to the Payment Systems rule when it was proposed in the **Federal Register** on June 10, 2024 (89 FR 49002). The information collection was approved under OMB Control No. 0581-0346 for a total of 59,182 hours for the first year, and 42,682 hours per year thereafter. No additional collection or recordkeeping requirements would be imposed on the public if the proposal to delay the effective date of the Payment Systems rule is finalized. Accordingly, OMB clearance is not required by the Paperwork Reduction Act.

E. Civil Rights Impact Analysis Statement

AMS has considered the potential civil rights implications of this proposed rule on members of protected groups and has determined this proposed rule does not contain any requirements related to eligibility, benefits, or services that would have the purpose or effect of excluding, limiting, or otherwise disadvantaging any individual, group, or class of persons on one or more prohibited bases.

F. Executive Order 13175

Executive Order 13175 requires Federal agencies to consult with Indian Tribes on a government-to-government basis on policies that have Tribal implications. This includes regulations, legislative comments or proposed legislation, and other policy statements or actions. Consultation is required when such policies have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. The following is a summary of activity to date.

AMS engaged in a Tribal Consultation in conjunction with a previous rulemaking also under the P&S Act ("Inclusive Competition and Market Integrity Under the Packers and Stockyards Act" (87 FR 60010, October 3, 2022)) on January 19, 2023, in person in Tulsa, Oklahoma, and virtually. AMS received multiple Tribal comments from that Consultation, many of which were specific to and considered in that rulemaking. In that consultation, Tribes raised legal concerns with respect to the jurisdiction of AMS enforcement of the P&S Act. Tribes commented that the P&S Act does not apply to Tribes and Tribal entities. Those comments raise a legal issue of statutory interpretation, but these concerns are not directly implicated by this rulemaking. AMS does not find that this rulemaking carries substantial direct effects on one or more Indian Tribes beyond the purely legal issue raised during consultation.

AMS recognizes and supports the Secretary's desire to incorporate Tribal and Indigenous perspectives, remove barriers, and encourage Tribal self-determination principles in USDA programs, including hearing and understanding Tribal views on legal authorities and cost implications as facts and circumstances develop. If a Tribe requests additional consultation, AMS will work with USDA's Office of Tribal Relations to ensure meaningful

consultation is provided in accordance with Executive Order 13175.

G. Executive Order 12988

This proposed rule is not intended to have a retroactive effect. If adopted, this proposed rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rulemaking.

H. E-Government Act

AMS is committed to complying with the E-Government Act (44 U.S.C. 3601, *et seq.*) by promoting 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.

I. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more (adjusted for inflation) in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rulemaking will not compel the expenditure in any one year of \$100 million or more (adjusted for inflation) by State, local, and Tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026-05330 Filed 3-17-26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-2712; Project Identifier AD-2025-00931-T]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019-20-07, which applies to all The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. AD 2019-20-07 requires repetitive operational checks of the leading edge (LE) outboard (OB) slats and applicable on-condition actions. AD 2019-20-07 also requires revising the airplane flight manual (AFM) to prohibit flap retraction under icing conditions and revising the existing maintenance or inspection program, as applicable, to incorporate a new operation check. Since the FAA issued AD 2019-20-07, the manufacturer developed further actions to address the unsafe condition. This proposed AD would retain all requirements of AD 2019-20-07 and would require replacing the LE outboard geared rotary actuator (GRA) with a LE outboard lockout actuator (LEOLA) at leading edge OB slat locations and revising the existing maintenance or inspection program, as applicable, to incorporate a new certification maintenance requirement (CMR). This proposed AD would also remove airplanes from the applicability. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 4, 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* under Docket No. FAA–2026–2712; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–2712.

FOR FURTHER INFORMATION CONTACT:

Emanuel Chaves Torres, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5350; email: *emanuel.chaves.torres@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–2026–2712; Project Identifier AD–2025–00931–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 Emanuel Chaves Torres, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5350; email: *emanuel.chaves.torres@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2019–20–07, Amendment 39–19760 (84 FR 54765, October 11, 2019) (AD 2019–20–07), for all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2019–20–07 was prompted by a determination that the LE OB slat system could be out of position without flight deck annunciation. AD 2019–20–07 requires repetitive operational checks of the LE OB slats and applicable on-condition actions. AD 2019–20–07 also requires revising the AFM to prohibit flap retraction under icing conditions and revising the existing maintenance or inspection program, as applicable, to incorporate a new operation check. The agency issued AD 2019–20–07 to address a potential condition in which the LE OB slat system could be out of position without flight deck annunciation. This condition, if not addressed, could result in insufficient lift, resulting in inability to maintain continued safe flight and landing.

Actions Since AD 2019–20–07 Was Issued

The preamble to AD 2019–20–07 specifies that the FAA considers that AD “interim action” and that the FAA may consider further rulemaking. Since the FAA issued AD 2019–20–07, the manufacturer has developed final actions to address the unsafe condition. The FAA has determined that these final actions must be required to address the unsafe condition and that accomplishing the final actions will terminate the requirements of AD 2019–20–07. The manufacturer has also incorporated these final actions on

airplanes in production, which reduces the number of airplanes that would be affected by the unsafe condition.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 002, dated November 25, 2024. This material specifies procedures for replacing the LE outboard GRA with a LEOLA at leading edge slat 2 and slat 11 outboard locations and revising the operator’s maintenance program to incorporate CMR document item 27–CMR–14, “Functionally check the Leading Edge Power Drive Unit Half System Torque Brake.”

This proposed AD would also require Boeing Alert Requirements Bulletin B787–81205–SB270051–00 RB, Issue 001, dated July 5, 2019, which the Director of the Federal Register approved for incorporation by reference as of October 11, 2019 (84 FR 54765, October 11, 2019).

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2019–20–07. This proposed AD would remove airplanes from the applicability by specifying affected line numbers and require new actions that would terminate the requirements of AD 2019–20–07. This proposed AD would also require accomplishing the actions specified in the material already described, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this material at *regulations.gov* under Docket No. FAA–2026–2712.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 174 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive operational checks (retained actions from AD 2019–20–07).	8 work-hours × \$85 per hour = \$680 per operational check.	\$0	\$680 per operational check.	\$118,320 per operational check.
AFM revision (retained action from AD 2019–20–07).	1 work-hour × \$85 per hour = \$85	0	\$85	\$14,790.
Replacement (new proposed action) ...	9 work-hours × \$85 per hour = \$765	31,610	\$32,375	\$5,633,250.

* Table does not include estimated costs for revising the existing maintenance or inspection program.

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

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this 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:
- a. Removing Airworthiness Directive (AD) 2019–20–07, Amendment 39–19760 (84 FR 54765, October 11, 2019), and
 - b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2026–2712; Project Identifier AD–2025–00931–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 4, 2026.

(b) Affected ADs

This AD replaces AD 2019–20–07, Amendment 39–19760 (84 FR 54765, October 11, 2019) (AD 2019–20–07).

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 002, dated November 25, 2024.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a determination that the leading edge (LE) outboard (OB) slat system could be out of position without flight deck annunciation. The FAA is issuing this AD to address a potential condition in which the LE OB slat system could be out of position without flight deck annunciation. The unsafe condition, if not addressed, could result in insufficient lift, resulting in inability to maintain continued safe flight and landing.

(f) Compliance

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

(g) Retained Required Actions, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–20–07, with no changes. Except as specified by paragraph (h) of this AD: At the applicable times specified in the "Compliance" paragraph of Boeing Alert Requirements Bulletin B787–81205–SB270051–00 RB, Issue 001, dated July 5, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB270051–00 RB, Issue 001, dated July 5, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB270051–00, Issue 001, dated July 5, 2019, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB270051–00 RB, Issue 001, dated July 5, 2019.

(h) Retained Exception to Service Information Specifications, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2019–20–07, with no changes. For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin B787–81205–SB270051–00 RB, Issue 001, dated July 5, 2019, uses the phrase "the Issue 001 date of Requirements Bulletin B787–81205–SB270051–00 RB," this AD requires using "October 11, 2019" (the effective date of AD 2019–20–07).

(i) Retained Airplane Flight Manual (AFM) Revision To Prohibit Flap Retraction Under Icing Conditions, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2019–20–07, with no

changes. Within 60 days after October 11, 2019 (the effective date of AD 2019–20–07), revise the Limitations Section of the existing AFM to include the information in figure 1 to paragraph (i) of this AD. This may be done

by inserting a copy of figure 1 to paragraph (i) of this AD into the Limitations Section of the existing AFM.

Figure 1 to Paragraph (i): AFM Revision

Flap Operation After Landing (Required by AD 2019-20-07)

In order to prevent failure of the slat drive system after landing, flaps must not be retracted if:

- Operating on the ground with ice, snow, slush, or standing water in icing conditions, or;
- An accumulation of airframe ice is observed or suspected.

Under circumstances where the flight crew deems it necessary to retract the flaps for safety reasons, they must notify maintenance via an approved means.

(j) Retained Maintenance or Inspection Program Revision To Incorporate a New Operation Check, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2019–20–07, with no changes. Within 60 days after October 11,

2019 (the effective date of AD 2019–20–07), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in figure 2 to paragraph (j) of this AD. This may be done by inserting a copy of figure 2 to paragraph (j) of this AD

into the existing maintenance or inspection program.

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Figure 2 To Paragraph (j): Maintenance or Inspection Program Revision

1. Cold Weather Maintenance Procedure - Handling

A. General

- (3) After an airplane lands in icing conditions, do the OPERATION CHECKS - SLAT/FLAP INSPECTION in this task before retracting the slats/flaps.

NOTE: Icing conditions exist when OAT (on the ground) or TAT (in-flight only) is 50°F (10°C) or below, and any of the following exist:

- When visible moisture (clouds, fog with visibility of one statute mile (1600 m) or less, rain, snow, sleet, ice crystals, and so on) is present.
- When ice, snow, slush or standing water is present on the taxiways, or runways.

(a) Do this inspection to make sure that contaminants (ice, snow, slush) are not present which can either obstruct retraction of the LE slats or TE flaps, or freeze the slats to the fixed leading edge after retraction.

(b) The type and area of inspection is as follows:

- 1) Do an examination of the entire leading edge slats and trailing edge flaps areas.

G. Operation Checks

(1) SLAT/FLAP INSPECTION

After any landing in icing conditions, do this inspection with the slats/flaps (flaps 25 detent) fully extended (Figure 2):

WARNING: MAKE SURE THAT YOU USE THE NECESSARY PRECAUTIONS IF PERSONNEL ARE NEAR THE FLIGHT CONTROL SURFACES. THE FLIGHT CONTROL SURFACES CAN MOVE QUICKLY. THIS CAN CAUSE INJURIES TO PERSONNEL AND DAMAGE TO EQUIPMENT.

(a) Examine these areas for contaminants (ice, snow, slush):

- 1) Slats/flaps surfaces
- 2) Leading edge contact surfaces

NOTE: "Contact surfaces" refers to the areas of the slat and the fixed wing that will be in contact after slat retraction.

- 3) Slat actuation areas, including exposed areas of the slat track cavity, and slat cove
- 4) Flap tracks, hinges, seals

(b) Remove the contamination that you find.

Figure 2 to paragraph (j): Maintenance or inspection program revision continued

(c) Confirm a contaminant-free condition in these areas immediately prior to retraction of the slats/flaps surfaces.

1) Slats/flaps surfaces

2) Leading edge contact surfaces

NOTE: “Contact surfaces” refers to the areas of the slat and the fixed wing that will be in contact after slat retraction.

3) Slat actuation areas, including exposed areas of the slat track cavity, and slat cove

4) Flap tracks, hinges, seals

(d) When the inspection is complete, do these steps:

NOTE: These steps make sure that the leading edge slat system is functional.

NOTE: Two persons are necessary to do these steps. One person will move the flap control lever in the flight compartment, and the other will confirm slat position from the ground.

1) Do not use Alternate mode to operate the surfaces.

NOTE: The Alternate mode only allows extension of slats to the Middle (sealed) position and not to the Extended (gapped) position.

WARNING: MAKE SURE THAT YOU USE THE NECESSARY PRECAUTIONS IF PERSONNEL ARE NEAR THE FLIGHT CONTROL SURFACES. THE FLIGHT CONTROL SURFACES CAN MOVE QUICKLY. THIS CAN CAUSE INJURIES TO PERSONNEL AND DAMAGE TO EQUIPMENT.

2) Retract the leading edge slats to the full up position (Flaps UP detent).

a) Make sure that you visually confirm from the ground that the slats have retracted to the Retracted (up) position.

3) Extend the leading edge slats to the full extend position (Flaps 25 detent).

a) Make sure that you visually confirm from the ground that the slats have extended to the Extended (gapped) position.

4) Retract the leading edge slats to the full up position (Flaps UP detent).

a) Make sure that you visually confirm from the ground that the slats have retracted to the Retracted (up) position.

(e) When all of the above steps are completed, the OPERATION CHECKS - SLAT/FLAP INSPECTION is complete.

Figure 2 to paragraph (j): Maintenance or inspection program revision continued

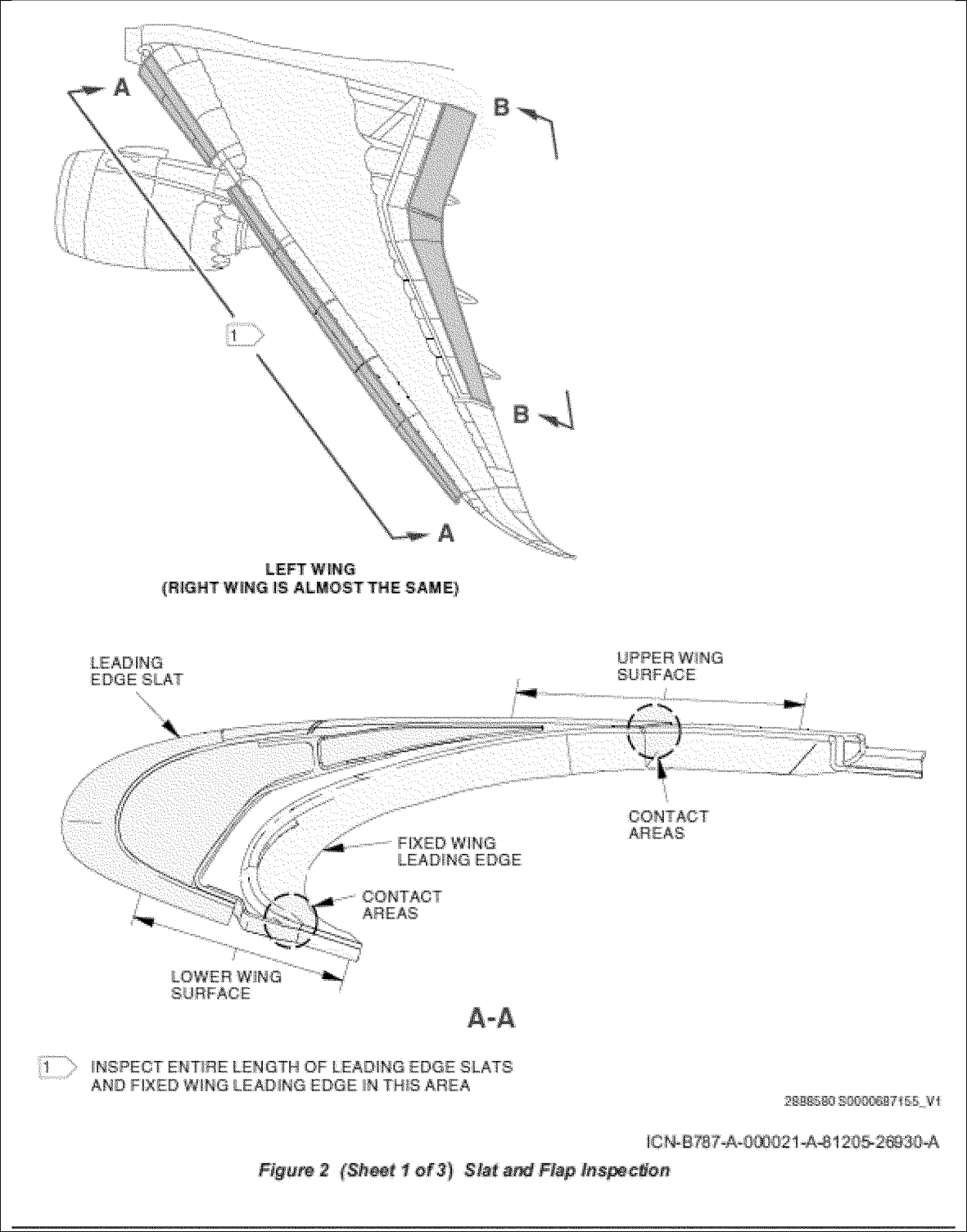
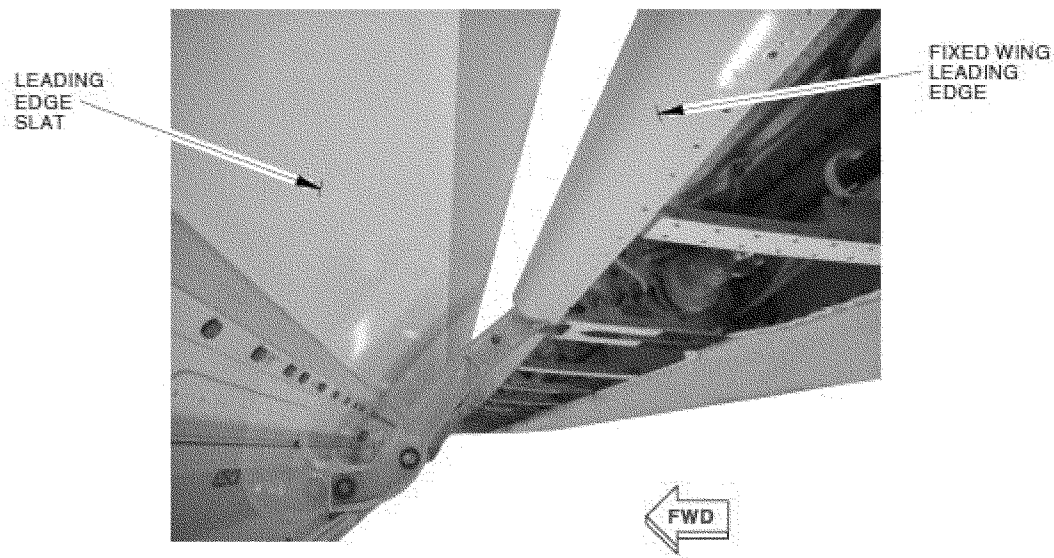
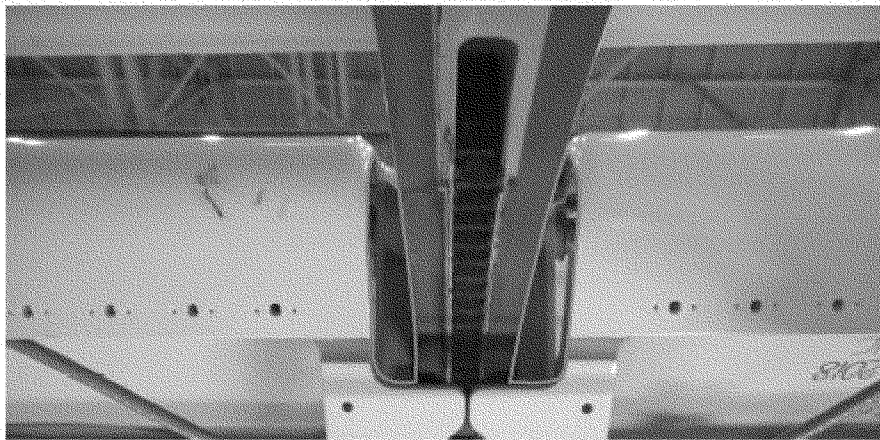


Figure 2 to paragraph (j): Maintenance or inspection program revision continued

ACTUATION AREAS
(TYPICAL)
A-A

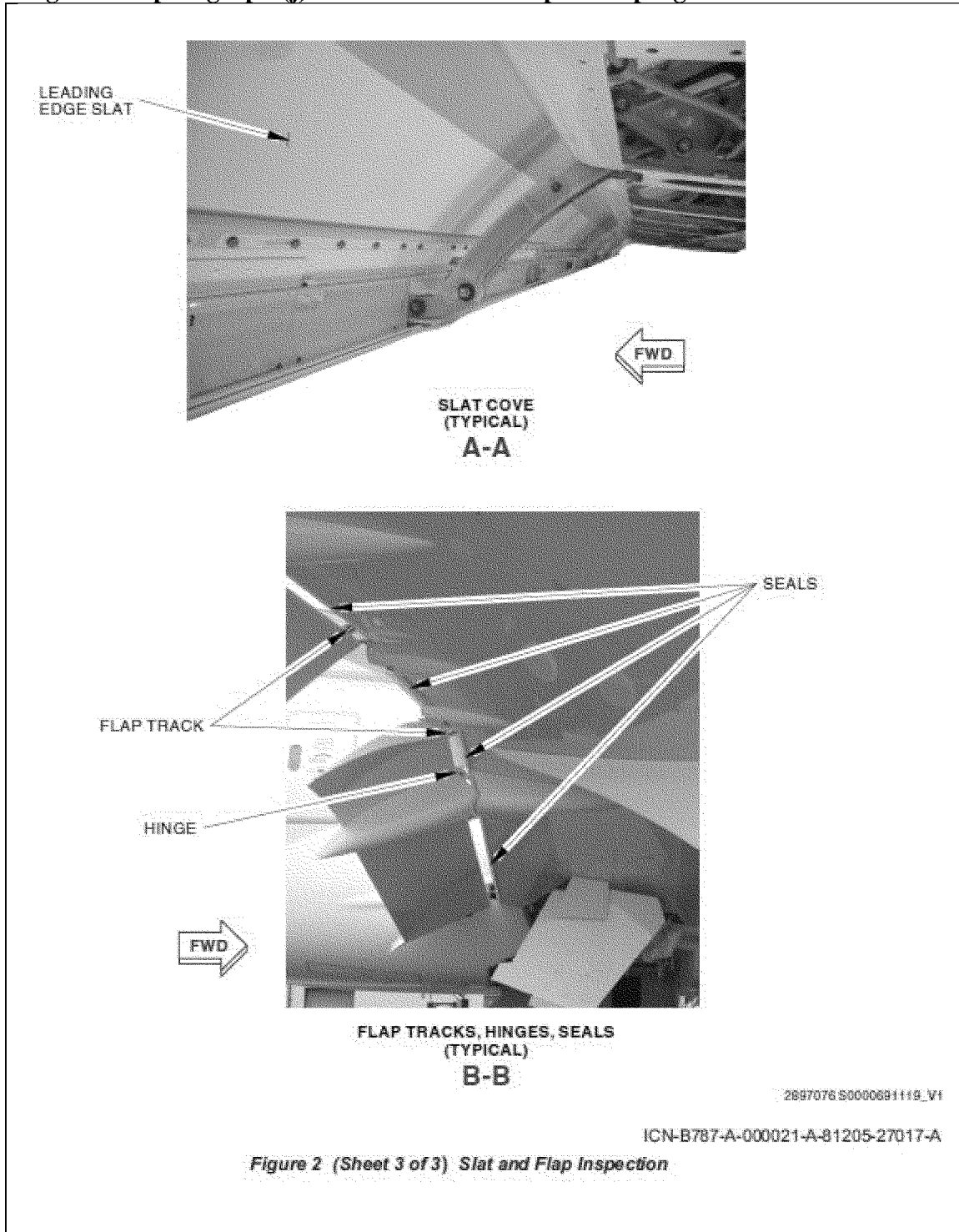


SLAT TRACK CAVITY
(TYPICAL)
(VIEW IN THE AFT DIRECTION)
A-A

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Figure 2 (Sheet 2 of 3) Slat and Flap Inspection

Figure 2 to paragraph (j): Maintenance or inspection program revision continued**BILLING CODE 4910-13-C****(k) Retained No Alternative Actions or Intervals, With No Changes**

This paragraph restates the requirements of paragraph (k) of AD 2019-20-07, with no changes. After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.*, inspections) or intervals may be used unless the actions or

intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p) of this AD.

(l) New Required Actions

Except as specified by paragraph (i) of this AD: At the applicable times specified in the "Compliance" paragraph of Boeing Alert Requirements Bulletin B787-81205-SB270055-00 RB, Issue 002, dated November

25, 2024, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787-81205-SB270055-00 RB, Issue 002, dated November 25, 2024.

Note 2 to paragraph (l): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787-81205-SB270055-00, Issue 002, dated November 25, 2024, which is

referred to in Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 002, dated November 25, 2024.

(m) Terminating Action

Accomplishing the actions required by paragraph (l) of this AD terminates the requirements of paragraphs (g), (i), and (j) of this AD for that airplane. After all affected airplanes in an operator's fleet have complied with paragraph (l) of this AD, the AFM revision required by paragraph (i) of this AD may be removed and the maintenance or inspection program revision required by paragraph (j) of this AD may be removed.

(n) Exceptions to Requirements Bulletin Specifications

Where the Compliance Time column of the tables in the "Compliance" paragraph of Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 002, dated November 25, 2024, refers to the Issue 001 date of Requirements Bulletin B787–81205–SB270055–00 RB, this AD requires using the effective date of this AD.

(o) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 001, dated December 12, 2023.

(p) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(3) AMOCs approved for AD 2019–20–07 are approved as AMOCs for the corresponding provisions of paragraphs (g), (i), and (j) of this AD.

(q) Additional Information

(1) For more information about this AD, contact Emanuel Chaves Torres, Aviation Safety Engineer, FAA, 2200 South 216th St.,

Des Moines, WA 98198; phone: 562–627–5350; email: emanuel.chaves.torres@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (r)(5) of this AD.

(r) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 002, dated November 25, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on October 11, 2019 (84 FR 54765, October 11, 2019).

(i) Boeing Alert Requirements Bulletin B787–81205–SB270055–00 RB, Issue 001, dated July 5, 2019.

(ii) [Reserved]

(5) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on March 12, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–05327 Filed 3–17–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 892

[Docket No. FDA–2025–N–5996]

RIN 0910–AI93

Medical Devices; Radiology Devices; Classification of Blood Irradiators

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify blood irradiator devices (product code MOT), unclassified preamendments devices, as follows: blood irradiator devices intended to prevent transfusion-associated graft-versus-host disease into class II (special controls) with premarket notification and blood irradiator devices intended to prevent metastasis into class III (premarket approval) to provide a reasonable assurance of safety and effectiveness of these devices. Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed order proposing to require the filing of a premarket approval application for blood irradiator devices intended to prevent metastasis.

DATES: Either electronic or written comments on the proposed rule must be submitted by May 18, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 18, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2025-N-5996 for “Medical Devices; Radiology Devices; Classification of Blood Irradiators.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents, the plain language summary of the proposed rule of not more than 100 words as required

by the “Providing Accountability Through Transparency Act,” or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Julie Sullivan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3658, Silver Spring, MD 20993-0002, 240-402-4973, Julie.Sullivan@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Proposed Rule

FDA (Agency or we) is proposing to classify blood irradiator devices, which are unclassified, preamendments devices, into two classes based on intended use. FDA proposes to classify blood irradiator devices intended to irradiate blood and blood products to prevent transfusion-associated graft-versus-host disease (blood irradiators intended to prevent TA–GVHD), including those intended to inactivate

leukocytes and/or lymphocytes to prevent TA–GVHD, into class II (special controls). Under this proposed rule, blood irradiators intended to prevent TA–GVHD would be subject to premarket notification to provide a reasonable assurance of safety and effectiveness of these devices. FDA proposes to classify blood irradiator devices intended to irradiate intraoperatively salvaged blood of cancer patients undergoing surgery to prevent metastasis (blood irradiators intended to prevent metastasis) into class III (premarket approval). A blood irradiator is a prescription device used to deliver a controlled radiation dose to blood or blood products. Blood and blood products in containers, such as blood bags, are placed inside a canister(s) that is loaded into the exposure chamber for irradiation. The radiation dose from blood irradiators intended to prevent TA–GVHD is intended to inactivate viable leukocytes, including lymphocytes, prior to transfusion to prevent TA–GVHD. While TA–GVHD is a rare complication of transfusion, in patients who develop TA–GVHD, it is fatal in the majority of affected patients. The radiation dose from blood irradiators intended to prevent metastasis is intended to result in damage of tumor cells. Blood irradiators within the scope of this proposed rule include an x-ray tube or a radionuclide sealed radiation source (e.g., Cobalt-60 or Cesium-137). FDA currently regulates these unclassified devices as devices that require premarket notification (510(k)), with product code MOT.¹ FDA intends to create a separate product code for blood irradiators intended to prevent metastasis upon finalization of this classification action.²

FDA initiated the classification of blood irradiators by consulting the Radiological Devices Advisory Panel at a meeting held on April 12, 2012 (2012 Panel) (Ref. 1). The 2012 Panel recommended that blood irradiators intended to prevent TA–GVHD be classified into class II, because the 2012 Panel believed that general and special controls would provide reasonable

¹ FDA uses product codes to help categorize and assure consistent regulation of medical devices. A product code consists of three characters that are assigned at the time a product code is generated and is unique to a product type. The three characters carry no other significance and are not an abbreviation.

² See “Medical Device Classification Product Codes—Guidance for Industry and FDA Staff,” available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/medical-device-classification-product-codes-guidance-industry-and-food-and-drug-administration-staff>.

assurance of the safety and effectiveness of these devices. The materials considered by the 2012 Panel noted that one device had been cleared at the time for the prevention of metastasis, but the 2012 Panel did not issue a recommendation as to the classification of blood irradiators intended to prevent metastasis.

FDA initiated the classification of blood irradiators intended to prevent metastasis by consulting the Radiological Devices Advisory Panel at a meeting held on November 7, 2023 (2023 Panel) (Ref. 2). The 2023 Panel recommended that blood irradiators intended to prevent metastasis be classified into class III. The 2023 Panel consensus was that insufficient information exists to determine that general and special controls are sufficient to provide reasonable assurance of safety and effectiveness of these devices, and blood irradiators intended to prevent metastasis present a potential unreasonable risk of illness or injury.

FDA conducted its own analyses of information from the 2012 and 2023 Panels (Refs. 1 and 2), including risks identified in the Center for Biologics Evaluation and Research (CBER) July 1993 memorandum “Recommendations Regarding License Amendments and Procedures for Gamma Irradiation of Blood Products” (CBER Memorandum) (Ref. 3); postmarket data regarding blood irradiators with product code MOT; adverse event reports in FDA’s Manufacturer and User Facility Device Experience (MAUDE) database and Medical Device Report (MDR) database; information in CDRH’s Medical Device Recalls database, and published scientific literature, as further described below. Based upon the analyses, FDA agrees with the recommendations of the 2012 Panel and the 2023 Panel. As such, FDA is proposing a split classification for blood irradiators.

FDA is proposing to classify blood irradiators intended to prevent TA–GVHD, including those intended to inactivate leukocytes and/or lymphocytes to prevent TA–GVHD, into class II (special controls). FDA is proposing this action based on the determination that general controls alone are not sufficient to provide reasonable assurance of the safety and effectiveness of blood irradiators intended to prevent TA–GVHD, and there is sufficient information to establish special controls, in combination with general controls, to provide such assurance. Under this proposal, premarket notification for blood irradiators intended to prevent TA–GVHD would be required.

Additionally, manufacturers may wish to use predetermined change control plans (PCCPs) as a way to implement future modifications to their devices without needing to submit a new 510(k) for each significant change or modification³ while continuing to provide a reasonable assurance of device safety and effectiveness.⁴ FDA reviews a PCCP as part of a marketing submission for a device to ensure the continued safety and effectiveness of the device without necessitating additional marketing submissions for implementing each modification described in the PCCP.

FDA is proposing to classify blood irradiators intended to prevent metastasis into class III (premarket approval). FDA is proposing this classification as FDA believes that insufficient information exists to determine that general controls and special controls would provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis, and that these devices present a potential unreasonable risk of illness or injury. FDA is also proposing, by proposed order published elsewhere in this issue of the **Federal Register**, to require the filing of a premarket approval application (PMA) for blood irradiators intended to prevent metastasis.

B. Summary of the Major Provisions of the Proposed Rule

This rule proposes to classify unclassified, preamendments blood irradiators: blood irradiators intended to prevent TA–GVHD, including those intended to inactivate leukocytes and/or lymphocytes to prevent TA–GVHD, and blood irradiators intended to prevent metastasis. The proposed rule, if finalized, would establish the identification and classification for these blood irradiator devices. The proposed classification action proposes to classify blood irradiators intended to

prevent TA–GVHD into class II as well as establish the special controls necessary to provide reasonable assurance of the safety and effectiveness of these devices. Under this proposed rule, premarket notification would be required for blood irradiators intended to prevent TA–GVHD. The proposed classification action proposes to classify blood irradiators intended to prevent metastasis into class III and require filing of a PMA. These proposed classification regulations, if finalized, would identify these blood irradiator devices as intended for prescription use.

C. Legal Authority

The Agency is proposing this classification under the authority of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 301 *et seq.*). Specifically, the relevant authority related to the proposed classification includes section 513(a) through (d) of the FD&C Act (21 U.S.C. 360c(a) through (d)), regarding device classes, classification, and panels and section 515 (21 U.S.C. 360e) regarding PMAs; and section 701(a) of the FD&C Act (21 U.S.C. 371(a)).

D. Costs and Benefits

The proposed rule, if finalized, would classify blood irradiators (unclassified, preamendments devices) into two classes based on intended use. It would classify blood irradiators intended to prevent TA–GVHD into class II (special controls) and blood irradiators intended to prevent metastasis into class III (premarket approval). Separately, FDA also is issuing a proposed order requiring the filing of a PMA for blood irradiators intended to prevent metastasis. Quantified benefits of the proposed rule, if finalized, would consist of cost savings to industry and FDA from a reduction in the quantity and time burden of informal inquiries related to blood irradiators intended to prevent TA–GVHD. We also estimate cost savings to industry and FDA from a reduction in the number of 510(k) submissions necessitating requests for additional information from FDA before and during review. Industry and FDA could incur costs associated with premarket approval applications for current and future blood irradiators intended to prevent metastasis. We additionally quantify one-time costs to industry to read and understand the proposed rule and the proposed order requiring the filing of a PMA, as well as one-time costs to industry to revise labeling. We estimate that the annualized benefits over 10 years would range from \$84 to \$180,268 at a 7 percent discount rate, with a primary

³ For the purpose of this proposed rule reference to “modification” means a significant change or modification that would generally require a new premarket notification under 21 CFR 807.81(a)(3).

⁴ Section 3308 of the Food and Drug Omnibus Reform Act of 2022, Title III of Division FF of the Consolidated Appropriations Act, 2023, Public Law 117–328 (“FDORA”), enacted on December 29, 2022, added section 515C “Predetermined Change Control Plans for Devices” to the Federal Food, Drug, and Cosmetic Act (FD&C Act). Section 515C has provisions regarding predetermined change control plans (PCCPs) for devices requiring premarket approval or premarket notification. Under section 515C, supplemental applications (section 515C(a)) and new premarket notifications (section 515C(b)) are not required for a change to a device that would otherwise require a premarket approval supplement or new premarket notification if the change is consistent with a PCCP approved or cleared by FDA.

estimate of \$90,176, and from \$86 to \$184,271 at a 3 percent discount rate, with a primary estimate of \$92,178. The annualized costs would range from

\$0.68 million to \$1.51 million at a 7 percent discount rate, with a primary estimate of \$1.07 million, and from \$0.66 million to \$1.53 million at a 3

percent discount rate, with a primary estimate of \$1.07 million.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation/acronym	What it means
510(k)	Premarket Notification.
ARO	Accidental Radiation Occurrence.
CBER	Center for Biologics Evaluation and Research.
CDRH	Center for Devices and Radiological Health.
CFR	Code of Federal Regulations.
FDA	Food and Drug Administration.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
Gy	Gray.
MAUDE	Manufacturer and User Facility Device Experience database.
MDR	Medical Device Report.
NRC	Nuclear Regulatory Commission.
PCCP	Pre-Determined Change Control Plan.
PMA	Premarket Approval Application.
Ref.	Reference.
TA–GVHD	Transfusion-Associated Graft-Versus-Host Disease.
U.S.C.	United States Code.

III. Background

A. Need for the Regulation

After the enactment of the 1976 Medical Device Amendments, FDA undertook an effort to identify and classify all preamendments devices in accordance with section 513(d) of the FD&C Act (21 U.S.C. 360c(d)). Section 513(b) of the FD&C Act (21 U.S.C. 360c(b)) requires FDA to classify all preamendments devices into class I, II, or III. Currently, blood irradiators, product code MOT, are unclassified devices subject to premarket notification (510(k)) under section 510(k) of the FD&C Act (21 U.S.C. 360(k)). Marketing of a new device within an unclassified device type requires FDA clearance of a 510(k). As described below, available records indicate FDA granted the first clearance of a blood irradiator intended to prevent TA–GVHD (K837346) in 1983 based on documentation that demonstrated that these devices are substantially equivalent to device(s) of the same type that were in commercial distribution prior to passage of the Medical Device Amendments on May 28, 1976. On May 26, 2005, FDA cleared the Raycell X-ray Blood Irradiator device (K051065). The Raycell X-ray Blood Irradiator is the first device to include, in addition to an intended use for the prevention of TA–GVHD, a second intended use for the prevention of metastasis.⁵ To date, FDA has cleared

a total of 16 devices under product code MOT. Two of the devices are cleared with dual intended uses to prevent TA–GVHD and to prevent metastasis.

FDA agrees with the 2012 Panel that general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of blood irradiators intended to prevent TA–GVHD, and sufficient information exists to establish special controls to adequately mitigate the risks to health and provide reasonable assurance of safety and effectiveness of this device. FDA is proposing to classify blood irradiators intended to prevent TA–GVHD into class II. FDA agrees with the 2023 Panel that insufficient information exists to determine that general and special controls are sufficient to provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis, and that the device presents a potential unreasonable risk of illness or injury. FDA is proposing to classify blood irradiators intended to prevent metastasis into class III.

B. FDA's Current Regulatory Framework

The FD&C Act (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (1976 amendments) (Pub. L. 94–295), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three classes of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: class I (general

controls), class II (special controls), and class III (premarket approval).

Section 513(a)(1) of the FD&C Act (21 U.S.C. 360c(a)(1)) defines the three classes of devices. Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 of the FD&C Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, or 360j) or any combination of such sections) are sufficient to provide reasonable assurance of safety and effectiveness; or those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act).

Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance, including the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions the Agency deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act).

⁵ The Raycell X-ray Blood Irradiator device was found to be substantially equivalent to a previously cleared device that has an intended use for the prevention of TA–GVHD only. At this time, FDA does not have records identifying a preamendments device with an intended use other than to prevent TA–GVHD. As reflected in this NPRM, and for the reasons described in Sections V.B–C of this

preamble, FDA is proposing to separately classify these two device types.

Class III devices are those devices for which insufficient information exists to determine that general controls (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 of the FD&C Act or any combination of such sections) and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

FDA refers to devices that were in commercial distribution before the 1976 amendments as “preamendments devices.” The procedures for classification of such devices are prescribed in sections 513(b)–(d) of the FD&C Act (21 U.S.C. 360c(b)–(d)). FDA classifies these devices after the Agency has: (1) received a recommendation from the appropriate device classification panel (which are part of the FDA Medical Devices Advisory Committee); (2) published the panel’s recommendation and a proposed regulation classifying the device for comment; and (3) published a final regulation classifying the device (section 513(d)(1) of the FD&C Act. FDA has classified most preamendments devices under these procedures.

A preamendments device that has been classified into class III only requires premarket notification and not approval of a PMA until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval. FDA is also proposing, by proposed order published elsewhere in this issue of the **Federal Register**, to require the filing of a PMA for blood irradiators intended to prevent metastasis.

Blood irradiators that include an x-ray source are radiation-emitting electronic products and, accordingly, also are subject to the Electronic Product Radiation Control requirements of the FD&C Act (sections 531 through 542 (21 U.S.C. 360hh through 360ss)) (originally enacted as the Radiation Control for Health and Safety Act of 1968), and its implementing regulations. This includes compliance with certain performance standards found in 21 CFR 1020.40 for cabinet x-ray systems, pursuant to the authority found in section 534 of the FD&C Act (21 U.S.C. 360kk). A blood irradiator that includes an x-ray source meets the definition of a cabinet x-ray system found in 21 CFR 1020.40(b)(3) because it consists of an x-ray tube installed in an enclosure intended to contain at least that portion of material,

in this case blood or blood components, being irradiated, provides radiation attenuation, and excludes personnel from its interior during generation of x radiation.

Blood irradiators that include a radionuclide sealed radiation source (sealed radiation source) may be subject to regulatory requirements of the Nuclear Regulatory Commission (NRC) pursuant to its authority under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 *et seq.*).

C. History of This Rulemaking

As previously described, blood irradiator devices are unclassified, preamendments devices. These devices have been subject to premarket review through a 510(k) submission and have been cleared for marketing if FDA found the device to be substantially equivalent to a legally marketed predicate in accordance with section 513(i) of the FD&C Act (21 U.S.C. 360c(i)). FDA has cleared a total of 16 devices within the scope of this classification action. Consistent with the FD&C Act, FDA convened the Radiological Devices Advisory Panel at two meetings regarding the classification of blood irradiators.

1. 2012 Radiological Devices Advisory Panel

On April 12, 2012, FDA convened the 2012 Panel to secure recommendations regarding risks and benefits presented by blood irradiators as well as the appropriate classification and regulatory controls that should apply to this device type (Ref. 1). At the meeting, FDA requested that the 2012 Panel consider whether blood irradiators intended to prevent TA–GVHD fit the statutory definition for a class II device. The 2012 Panel considered the information about this device type provided by FDA, including results and analysis from a literature search and search of known adverse events (Ref. 1). The 2012 Panel considered both types of blood irradiators intended to prevent TA–GVHD: the x-ray tube blood irradiators and the sealed radiation source blood irradiators. The 2012 Panel did not issue a recommendation as to the classification of blood irradiators intended to prevent metastasis.

At the 2012 Panel meeting, FDA presented information on the identified risks to health and proposed mitigation measures for blood irradiators intended to prevent TA–GVHD. FDA-identified risks to health included improper radiation dose to blood or blood products, radiation exposure to the user, and electric shock. FDA proposed mitigation measures for the identified

risks to health, which included premarket review of indications for use and design specifications, and compliance with the CBER Memorandum (Ref. 3). The CBER Memorandum provides recommendations to blood establishments on manufacturing, quality control procedures, labeling and other aspects of manufacturing irradiated blood and blood products. FDA also suggested in 2012 Panel materials, as a mitigation for certain risks to health, compliance with NRC regulations and certain regulations of states that have entered into agreements with NRC that govern radioactive isotopes and their safe use (collectively referred to in the remainder of this proposed rule as “NRC regulations”), which would apply to blood irradiators that use a sealed radiation source. During the 2012 Panel meeting, FDA presented the additional risk of damage to blood or blood components from radiation. This risk is associated with a shorter shelf life for irradiated blood and blood components, as noted in the CBER Memorandum and discussed at the 2012 Panel.

The 2012 Panel agreed with the FDA-identified risks to health associated with blood irradiators intended to prevent TA–GVHD. Several of the 2012 Panel members suggested additional risks of mechanical or crush injury from door closure and dose inhomogeneity. For dose inhomogeneity, multiple Panel members expressed a concern that a large dose inhomogeneity could result in the blood or blood product receiving an ineffective dose of radiation. The main concern was the ability to deliver 25 gray (Gy) of radiation targeted to the central portion of the container and to achieve a 15 Gy minimum dose at any other point within the container, as recommended in the CBER Memorandum, for all contents in the irradiation exposure chamber for all possible fillings. Several of the 2012 Panel members also expressed concern for safety and security in terms of using the device and adequate training of personnel. FDA has interpreted concerns about safety and security to be about operator error and lack of safety controls on the device to protect against exposure to the radiation source. There was some disagreement among the 2012 Panel members as to whether manufacturer-provided personnel training should be a special control because of the challenge it puts on manufacturers and on facilities’ ability to perform their own training.

The 2012 Panel members suggested that the risks to health associated with improper radiation dose, including not

achieving minimum dosing throughout the irradiated blood and blood components due to dose inhomogeneity, could be mitigated by performance standards and design controls (Ref. 1, 2012 Panel transcript at 187–189). FDA interprets this discussion to mean performance testing to demonstrate that the device performs as intended under anticipated conditions of use, and certain labeling information. For dose inhomogeneity, the 2012 Panel members also recommended periodic demonstration of the dose uniformity and a recommended dosimetric evaluation interval. Based upon the 2012 Panel discussion, FDA interprets periodic demonstration of the dose uniformity at recommended intervals to mean the inclusion of a recommended quality assurance program by the manufacturer, that manufacturers provide information about dosimetric distribution measured both in air and with the canister or exposure chamber filled with water, and that manufacturers provide information about decay and residual strength of the sealed radiation source, where applicable. The 2012 Panel also suggested some indication of dose rate and a manufacturer provided method for identifying if the proper dose of radiation is delivered. To mitigate against the risk of exposure to the sealed radiation source, which may be caused by operator error or lack of safety controls on the device, the 2012 Panel suggested adding a special control requiring safety and security that limits who can operate the device. Some of the 2012 Panel-recommended mitigations were suggested by the CBER Memorandum.

The consensus of the 2012 Panel was that class I (general controls) alone would not be adequate to provide a reasonable assurance of safety and effectiveness for blood irradiators intended to prevent TA–GVHD and that special controls could be identified. The 2012 Panel agreed that the CBER Memorandum, although intended for blood establishments manufacturing irradiated blood products, provided a good resource to develop special controls for both sealed radiation source and x-ray source devices. The 2012 Panel noted that blood irradiators are an established technology to prevent TA–GVHD in transfused patients, and that blood establishments' implementation of the recommendations in the CBER Memorandum, together with the performance standards found in 21 CFR 1020.40 for cabinet x-ray systems, which would include x-ray source blood irradiators, had resulted in few

published problems and no reported adverse events in literature over a long period of time when the device was used at the CBER recommended dosage level. The 2012 Panel recommended that blood irradiators intended to prevent TA–GVHD be classified into class II to provide reasonable assurance of safety and effectiveness of these devices.

FDA tentatively agrees with the 2012 Panel's recommendation that general controls and special controls are needed to provide reasonable assurance of safety and effectiveness of blood irradiators intended to prevent TA–GVHD and that this device be classified into class II. General controls are insufficient to provide reasonable assurance of safety and effectiveness of this device type based on the fatal nature of TA–GVHD and risk of the disease if the radiation exposure does not inactivate the lymphocytes present in the blood. Identification of the dose of radiation necessary to inactivate lymphocytes, pre-market data requirements showing that the blood irradiator is capable of delivering this radiation dose to the blood and blood components, and labeling requirements including required quality control processes are necessary to mitigate the identified risks to health. Accordingly, FDA is proposing to classify blood irradiators intended to prevent TA–GVHD into class II (special controls).

2. 2023 Radiological Devices Panel of the Medical Devices Advisory Committee

On November 7, 2023, FDA convened the 2023 Panel to make recommendations regarding the risks and benefits presented by blood irradiators intended to prevent metastasis as well as the appropriate classification and regulatory controls that should apply to these devices (Ref. 2). At the meeting, FDA requested that the 2023 Panel consider whether blood irradiators intended to prevent metastasis fit the statutory definition for a class III device. The 2023 Panel considered the information provided by FDA about blood irradiators intended to prevent metastasis, including results and analysis from a literature search and search of known adverse events (Ref. 2).

During the 2023 Panel meeting, FDA presented information on the identified risks to health for blood irradiators intended to prevent metastasis as well as proposed mitigation measures. FDA identified similar risks to health related to the device hardware and software as blood irradiators intended to prevent TA–GVHD, which are similar in design and function. Specifically, these risks to

health included: damage to blood components from radiation, unintended (non-therapeutic) radiation exposure to the operator and public, electric shock or burn, and mechanical or crush injury. FDA also identified unique risks to health posed by the intended use of blood irradiators intended to prevent metastasis, including presence of proliferative malignant cells in re-transfused blood due to incorrect dose or improper dose of radiation delivered, worsened control of oncologic disease or patient prognosis, and delayed or lack of re-transfusion of irradiated blood or blood component.

FDA's search of literature for blood irradiators intended to prevent metastasis for the 2023 Panel returned a limited number of articles (Ref. 2, FDA Executive Summary, Appendix D). None of the articles identified as part of the systematic literature search provided information on the safety assessment of the use of these devices for prevention of metastasis. No articles provided definitive information on the effect of salvaged blood irradiation on metastasis. Moreover, the literature showed a lack of consensus on the specific dose to use (reported doses were 25–50 Gy) to render tumor cells nonviable, and for which cancer type and surgical procedure (Ref. 2, Presentation (Classification of Blood Irradiators for the Prevention of Metastasis)). Several articles observed that blood irradiation took additional time to perform (Ref. 2, Presentation (Classification of Blood Irradiators for the Prevention of Metastasis)). At the meeting, FDA indicated that because long-term safety risks, such as the cancer outcome, patient recovery, or survival, are unclear based upon the available information, these risks to health may not be effectively mitigated by special controls. Further, based on the available information, there appears to be a lack of clinical data to demonstrate a clear clinical benefit from use of the blood irradiators intended to prevent metastasis.

The 2023 Panel agreed with the FDA-identified risks to health for blood irradiators intended to prevent metastasis. The 2023 Panel identified several additional risks to health related to the device's intended use, including: risk of induction of a new cancer due to irradiation of the blood or blood components, risk of induction of mutations in cells irradiated more than once (*i.e.*, if blood was salvaged and re-transfused multiple times during the surgical procedure), risks associated with the volume of blood that may need to be irradiated and the additional operating procedure time, and risks

associated with usability including irradiating the salvaged blood outside the operating room and the potential for blood to be incorrectly labeled or misidentified. The 2023 Panel also noted that it is unclear whether risks to health related to the device's intended use can be exhaustively identified.

The 2023 Panel consensus was that insufficient information exists to determine that class I (general controls) and class II (special controls) are sufficient to provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis. The 2023 Panel members suggested that risks to health associated with the device's hardware and software were similar to those for blood irradiators intended to prevent TA–GVHD because device function and design were the same. However, the risks to health associated with the device's intended use—for the prevention of metastasis in cancer patients receiving intraoperatively salvaged blood—could not fully be identified or mitigated with general and special controls given the very limited data available. In addition, there are uncertainties about the effective radiation dose, including whether the dose would be the same for all cancer types and all surgical procedures. Regarding the benefit and risk assessment, the 2023 Panel consensus was there is no definitive evidence showing that irradiation of intraoperatively salvaged blood is effective to prevent metastasis in patients. As a result, the risk of injury is unreasonable given the lack of probable benefit. The 2023 Panel recommended that these devices be classified into class III (premarket approval).

FDA agrees with the 2023 Panel that risks to health of blood irradiators for the prevention of metastasis cannot fully be identified or mitigated with special controls given the very limited data available and that there is a potential unreasonable risk of illness or injury for these devices given the lack of probable benefit. For the reasons stated by the 2023 Panel, FDA has tentatively determined that general controls and special controls are not sufficient to provide reasonable assurance of safety and effectiveness of blood irradiators intended to prevent metastasis. FDA is proposing that these devices be classified into class III.

IV. Legal Authority

The Agency is proposing this classification under the authority of the FD&C Act (21 U.S.C. 301 *et seq.*). Specifically, the relevant authority

related to the proposed classification includes sections 513(a) through (d) of the FD&C Act (21 U.S.C. 360c(a) through (d)), regarding device classes, classification, and panels; and section 515 (21 U.S.C. 360e), regarding PMAs.

V. Description of the Proposed Rule

We are proposing to amend subpart G of 21 CFR part 892 by adding § 892.7000 to classify blood irradiators, currently categorized under the product code MOT, with sub-sections for blood irradiators intended to prevent TA–GVHD, including those intended to inactivate leukocytes and/or lymphocytes to prevent TA–GVHD, and blood irradiators intended to prevent metastasis, in accordance with section 513(d) of the FD&C Act (21 U.S.C. 360c(d)) and section 701(a) of the FD&C Act (21 U.S.C. 371).

A. Device Description

A blood irradiator is a prescription device used to deliver a controlled radiation dose to blood or blood products. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met. This generic type of device may include an x-ray or a sealed radiation source. Blood irradiators intended to prevent TA–GVHD are used to deliver a controlled radiation dose to blood or blood products prior to transfusion to prevent TA–GVHD. Blood irradiators intended to prevent metastasis are used to irradiate intraoperatively salvaged blood *ex vivo* for cancer patients undergoing surgery to assist in the prevention of metastasis.

B. Risks to Health and Public Health Benefits

In evaluating the risks to health associated with use of blood irradiators intended to prevent TA–GVHD and blood irradiators intended to prevent metastasis, FDA considered information from the 2012 Panel and 2023 Panel, respectively, including risks identified in the CBER Memorandum (Ref. 3); postmarket data regarding blood irradiators with product code MOT, including adverse event reports in the MAUDE database; CDRH's Medical Device Recalls database, and the published scientific literature, some of which is discussed in FDA's executive summaries for the 2012 and 2023 Panel meetings (Refs. 1 and 2).

For blood irradiators intended to prevent TA–GVHD, in addition to the literature analysis conducted for the

2012 Panel meeting, FDA conducted literature searches on January 25, 2024, and September 23, 2024, for articles published since the 2012 Panel meeting about these devices. These literature searches identified nine additional relevant articles (Refs. 4–12). The information from the contemporary literature analyses is consistent with the findings of the prior literature analysis presented at the 2012 Panel meeting. For blood irradiators intended to prevent metastasis, in addition to the literature analysis conducted for the 2023 Panel meeting, FDA conducted a contemporary literature search on September 23, 2024, for articles published since the prior search for the 2023 Panel meeting. One new paper was identified (Ref. 13). The information from the 2024 literature analysis is consistent with the findings of the prior literature analysis presented at the 2023 Panel meeting.

FDA's search of the MAUDE and MDR databases for the 2012 and 2023 Panel meetings for product code MOT, which includes blood irradiators intended to prevent TA–GVHD and blood irradiators intended to prevent metastasis, identified five MDRs related to blood irradiators reported in MAUDE. Two MDRs contained no information, one was a suggestion for devices to include an audible alarm, and two noted low x-ray tube output that may have resulted in less than 15 Gy being delivered to all locations within the irradiation canister. No direct adverse events to patients were reported. Following these searches, FDA received one additional report describing multiple adverse events on May 14, 2024. The adverse events were related to high current safety interlock system switch failures that were reported to result in superficial (first-degree) burns. For blood irradiators intended to prevent TA–GVHD, the proposed special controls covering demonstration of appropriate functioning of safety systems, including interlocks, and electrical safety testing are designed to mitigate this risk to health. During the same time period, there were no accidental radiation occurrences (AROs) reported under 21 CFR 1002.20 for devices with product code MOT containing x-ray tubes. FDA conducted updated queries for MDRs on July 7, 2025, and for AROs on November 22, 2024 and August 4, 2025. No additional reports were identified.

FDA also reviewed recalls reported under product code MOT from November 2002 to June 22, 2025. There were two product recalls during that time period. The first recall was a class 3 recall to complete a cooling system

retrofit to preclude overheating and failure of the device. The recall was terminated May 13, 2012.⁶ The second recall was a class 2 recall, for non-compliance with the associated performance standards within 21 CFR Subchapter J Radiological Health. Specifically, the device failed to comply with the performance standard for cabinet x-ray systems (21 CFR 1020.40).⁷ To address this issue, the company completed repairs during annual routine preventive maintenance visits at the users' sites to minimize downtime, and the recall was terminated August 1, 2017.

1. Risks to Health and Public Health Benefits for Blood Irradiators Intended To Prevent TA–GVHD

As noted in Section III.C.1, for blood irradiators intended to prevent TA–GVHD, the 2012 Panel members suggested additional risks to health of mechanical crush and injury, dose inhomogeneity, and safety and security in terms of using the device and adequate training of personnel, which FDA has interpreted to be about operator error and a lack of safety controls to protect against exposure to the radiation source. FDA agrees that there is a risk to health of mechanical or crush injury from door closure and has added it as a separate risk category. The design of blood irradiators includes an amount of shielding sufficient to prevent radiation exposure to the operator, causing the door to be atypically heavy. FDA also agrees that dose inhomogeneity may pose a risk that not all blood and blood products placed in the device receive an effective dose of radiation. However, FDA does not believe that dose inhomogeneity needs to be added as a separate category of risk to health. Instead, FDA included this risk to health within the description of the risk of improper radiation to blood or blood products, with mitigations included in the proposed special controls to address this concern. FDA included risks to health posed by operator error and a lack of safety controls on the device within “Improper radiation dose to blood or blood products” and “Unintended radiation exposure to the operator and others,” respectively. Safety controls include

device access controls that may be hardware or software controlled. FDA modified the risk category from “Radiation exposure to the user” to “Unintended radiation exposure to the operator and others” to expressly capture risk to other persons in the vicinity of the device in addition to the direct operator and to clarify that the exposure is unintended (*i.e.*, it is not part of the limited degree of radiation exposure that is anticipated and accepted when using a device that works via ionizing radiation).

Based upon the information described above, FDA identified the following risks to health for blood irradiators intended to prevent TA–GVHD:

- *Damage to blood or blood components from radiation:* Irradiation of whole blood and red blood cells causes damage to red blood cells and lymphocytes within the blood. Radiation damages the membrane of red blood cells leading to higher concentrations of potassium in plasma, hemolysis (destruction of red blood cells), and decreased red blood cell viability and survival.

- *Improper radiation dose to blood or blood products:* Failure to deliver a proper radiation dose to the intended target can result in immunologically active cells in transfused blood or blood products, which may result in TA–GVHD, which is often fatal. Delivery of an improper dose could result from multiple causes including: inability of the device to deliver 25 Gy of radiation targeted to the central portion of the container or a 15 Gy minimum dose at any other point within the container; dose inhomogeneity; malfunction of the device; lack of adequate maintenance, dosimetry or quality assurance checks; electrical fault, electromagnetic interference, or mechanical fault; or operator error causing improper dose delivery, including improper loading of the sample canister and incorrect exposure time entered into the user interface.

- *Unintended radiation exposure to the operator and others:* Device malfunction, lack of adequate maintenance, inadequate shielding, or safety control or interlock failure could allow the operator to access the radiation source resulting in physical injury and/or exposure of the operator or other nearby persons to radiation. Exposure to ionizing radiation has been shown to increase cancer risk (Ref. 14). Insufficient presence of safety controls or interlocks within irradiator design may result in unintended exposure.

- *Electrical shock:* Electrical malfunction of the device or operator contact with an energized portion may

result in electrical shock or burns. This can occur when there are insufficient or malfunctioning safety controls or interlocks.

- *Mechanical crush or injury:* Blood irradiators contain shielding materials to prevent excess radiation emission outside the device causing the device itself and many components to be heavy. Operator inattention or placement of body parts where they can be impinged by the device may result in physical injury to the operator.

In evaluating benefits associated with the use of blood irradiators intended to prevent TA–GVHD, FDA considered information from the 2012 Panel regarding the classification of blood irradiators intended to prevent TA–GVHD and the published scientific literature. The information indicated that blood irradiation is an accepted method to prevent TA–GVHD by inactivation of T-lymphocytes to prevent post-transfusional proliferation and has been widely used for this purpose since the 1970s (Ref. 1, Executive Summary, Appendix A, Section III.A).

2. Risks to Health and Benefits to Public Health for Blood Irradiators Intended To Prevent Metastasis

As noted in Section III.C.2, in addition to the risks to health that FDA presented at the 2023 Panel for blood irradiators intended to prevent metastasis, Panel members suggested additional risks to health: risk of induction of a new cancer due to irradiation of the blood or blood components, risk of induction of mutations in cells irradiated more than once (*i.e.*, if blood was salvaged and retransfused multiple times during the surgical procedure), risks associated with the volume of blood that may need to be irradiated and the additional operating procedure time, and risks associated with usability including irradiating the salvaged blood outside the operating room and the potential for blood to be incorrectly labeled or misidentified. FDA agrees with the additional risks to health identified by the 2023 Panel. However, FDA does not believe that induction of mutations in cells irradiated more than once needs to be added as a separate category of risk to health. FDA views this risk as a subset of the risk of induction of a new cancer due to the irradiation of the blood or blood components. Multiple irradiations may lead to a greater chance of a cell being damaged. Should this damage result in negative changes in the cell, the risk to the patient would be induction of a new cancer if cells are malignantly transformed. Accordingly,

⁶ For details about termination of a recall see 21 CFR 7.55.

⁷ A blood irradiator that includes an x-ray source meets the definition of a cabinet x-ray system found in § 1020.40(b)(3) because it consists of an x-ray tube installed in an enclosure intended to contain at least that portion of material, in this case blood or blood components, being irradiated, provides radiation attenuation, and excludes personnel from its interior during generation of x radiation.

we have included the risk of induction of mutations in cells within the description of the risk “Induction of a new cancer due to irradiation of the blood or blood components.”

We have included the risk associated with the volume of blood that may need to be irradiated with the description of the risk to health “Delayed or lack of re-transfusion of irradiated blood or blood components.” Irradiation of the blood adds time to the intraoperative procedure, after salvage and filtration have occurred. Depending how much blood is removed for re-transfusion and when it is re-transfused during the procedure, irradiation may need to occur multiple times. In addition, FDA has updated the wording of the risk to health “Damage to blood components from radiation” to “Damage to blood or blood components from radiation” to better reflect the variety in the product re-transfused (e.g., blood with plasma proteins and clotting factors, washed red blood cells). The term blood component was originally used to specify that it was a blood component (i.e., lymphocyte or red blood cell) that was damaged by irradiation. FDA also updated the wording of the risk to health “Unintended radiation exposure to the operator and public” to “Unintended radiation exposure to the operator and others” to clearly reflect other persons who may be at risk of such exposure (e.g., patients, bystanders).

Based on the information described in this Section V.B., FDA has identified the following risks to health associated with blood irradiators intended to prevent metastasis:

- *Damage to blood or blood components from radiation:* Irradiation of whole blood and red blood cells causes damage to red blood cells and lymphocytes within the blood. Radiation damages the membrane of red blood cells leading to higher concentrations of potassium in plasma, hemolysis (destruction of red blood cells), and decreased red blood cell viability and survival.

- *Unintended radiation exposure to the operator and others:* Device malfunction, lack of adequate maintenance, inadequate shielding, or safety control or interlock failure could allow the operator to access the radiation source resulting in physical injury and/or exposure of the operator or other nearby persons to radiation. Exposure to ionizing radiation has been shown to increase cancer risk (Ref. 13). Insufficient presence of safety controls or interlocks within irradiator design may result in unintended exposure.

- *Electrical shock:*⁸ Electrical malfunction of the device or operator contact with an energized portion may result in electrical shock or burn. This can occur when there are insufficient or malfunctioning safety controls or interlocks.

- *Mechanical or crush injury:* Blood irradiators contain shielding materials to prevent excess radiation emission outside the device causing the device itself and many components to be heavy. Operator inattention or placement of body parts where they can be impinged by the device may result in physical injury to the operator.

- *Presence of proliferative malignant cells in re-transfused blood due to incorrect dose or improper dose of radiation delivered:* Incorrect dose of radiation identified to be effective or improper dose of radiation delivered due to operator error, device malfunction, lack of adequate maintenance, or lack of dosimetry or quality assurance checks, may result in tumor cell survival leaving proliferative (i.e., able to function, grow, and divide) tumor cells present in the blood.

- *Worsened control of oncologic disease or patient prognosis:* Irradiating blood or blood components may cause an immune response that negatively impacts cancer outcome or patient recovery or survival.

- *Delayed or lack of re-transfusion of irradiated blood or blood components:* Use of the device inherently delays re-transfusion and lengthens the duration of the operating procedure with larger volumes of blood irradiated adding a larger amount of additional operating procedure time. Device malfunction, including from mechanical, electrical, or software malfunctions, or operator error could lead to improper or no irradiation of the blood or blood components, which could add additional delay if the malfunction or error results in the salvaged blood not being suitable for re-transfusion into the patient. Delay in re-transfusion could increase risk to patients depending on their blood volume at any given point in the procedure. Longer operating times are associated with increased risks, including prolonged exposure to anesthesia and greater risk of infection.

- *Induction of a new cancer due to irradiation of the blood or blood components:* Irradiation of nucleated

cells may result in malignant transformation as ionizing radiation exposure causes DNA damage that may result in downstream biologic effects (e.g., mutation, cell killing or carcinogenesis) (Ref. 15). Permanent DNA damage could result in the cells becoming malignant. Quantitative risk assessment of this phenomenon occurring in irradiated blood for the prevention of metastasis has not been performed. If blood salvage and processing, including irradiation, occurs multiple times, blood cells may be exposed to ionizing radiation multiple times. If those cells are returned into the body this could result in induction of a new cancer.

- *Risks associated with usability including irradiating the salvaged blood outside the operating room and the potential for blood to be incorrectly labeled or misidentified:* Included in this risk to health are issues with operating the device in a way that results in an incorrect blood product being given to the patient. For example, should blood irradiation be performed in a manner where blood or blood products from multiple patients are irradiated at one time, if the bags are labeled with the wrong patient information, or are thought to be irradiated, but are not, this could result in the patient receiving a transfusion of the wrong blood. This could include operator error or inadequate usability testing of the points of interaction between the device and the operator, including displays and instructions for use.

In evaluating benefits associated with the use of blood irradiators intended to prevent metastasis, FDA considered information from the 2023 Panel regarding the classification of blood irradiators intended to prevent metastasis and the results of published scientific literature searches performed on April 20, 2023 and September 23, 2024. The information indicated that there appears to be a lack of clinical data to demonstrate that irradiating intraoperatively salvaged blood is able to prevent metastasis in patients and therefore there is no clear clinical benefit from use of the blood irradiators intended to prevent metastasis.

C. Proposed Classification and FDA's Findings

Based on FDA's experience with blood irradiators intended to prevent TA-GVHD, including those intended to inactivate leukocytes and/or lymphocytes to prevent TA-GVHD, the 2012 Panel's recommendations, and other available information, FDA is proposing to classify blood irradiators

⁸ The original 2023 Panel materials denoted this risk as “Electrical shock or burn.” We have updated the title of this risk to health to be consistent with the similar risk discussed earlier in this proposed rule for blood irradiators intended to prevent TA-GVHD; the description of this risk to health is identical to what was included in the 2023 Panel materials.

intended to prevent TA-GVHD into class II. FDA is proposing to classify blood irradiators intended to prevent TA-GVHD into class II because general controls alone are insufficient to provide reasonable assurance of the safety and effectiveness of these devices (see Section III.C.1) as presented and discussed during the 2012 Panel meeting (Ref. 1). FDA also believes there is sufficient information to establish special controls to mitigate the risks to health of the device. FDA has tentatively determined that the special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of blood irradiators intended to prevent TA-GVHD. Blood irradiators intended to prevent TA-GVHD would be subject to 510(k) requirements under section 510(k) of the FD&C Act (21 U.S.C. 360(k)).

Based on FDA's experience with blood irradiators intended to prevent metastasis, the 2023 Panel's recommendations, and other available information, FDA is proposing to classify blood irradiators intended for use in irradiating intraoperatively salvaged blood of cancer patients undergoing surgery to prevent metastasis into class III. FDA is proposing this classification because FDA believes that insufficient information exists to determine that general controls and special controls would provide reasonable assurance of safety and effectiveness for these devices and, based upon assessment of benefits and risks, blood irradiators intended to prevent metastasis present a potential unreasonable risk of illness or injury. FDA does not believe the special controls proposed for blood irradiators intended to prevent TA-GVHD are sufficient to provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis. FDA has identified additional risks to health posed by the intended use for prevention of metastasis, as described in section V.B.2, for which it does not have adequate information to establish special controls. Additionally, FDA agrees with the 2023 Panel that the identified risks for this intended use may not be exhaustive. Elsewhere in this issue of the **Federal Register**, FDA is proposing through a proposed order to require the filing of a PMA under section 515(b) of the FD&C Act. The proposed order will only be finalized if and when FDA finalizes this proposed rule classifying blood irradiators intended to prevent metastasis in class III.

VI. Proposed Special Controls for Blood Irradiators Intended To Prevent TA-GVHD

FDA is proposing the special controls identified in this section for blood irradiators intended to prevent TA-GVHD. FDA believes that these special controls, in addition to general controls, are necessary to provide a reasonable assurance of safety and effectiveness of these devices. Special controls for blood irradiators intended to prevent TA-GVHD were discussed at the 2012 Panel (Ref. 1, Executive Summary Table III). The consensus of the 2012 Panel was that the CBER Memorandum was a good resource for establishing special controls for these devices, including blood irradiators for TA-GVHD that use an x-ray source. The 2012 Panel concurred that the recommendations described in the CBER Memorandum provided sufficient guidance for a reasonable assurance of safety and effectiveness for this device type with some additional risk mitigations suggested by the 2012 Panel (Ref. 1, Transcript at 196).

The proposed special controls listed below for blood irradiators intended to prevent TA-GVHD include some risk mitigations and special controls proposed and recommended at the 2012 Panel meeting. FDA agrees with the 2012 Panel that certain recommendations suggested by the CBER Memorandum would support reasonable assurance of safety and effectiveness of blood irradiators to prevent TA-GVHD. As a result, the proposed risk mitigations and special controls for blood irradiators intended to prevent TA-GVHD include controls that are recommended in the CBER Memorandum for blood banks that FDA has determined are appropriate for and adaptable to devices to mitigate the identified risks. The proposed special controls include items suggested by the CBER Memorandum that were specifically discussed by the 2012 Panel members as well as those that were not specifically discussed but that FDA has determined to be relevant to this classification action. The proposed special controls include performance testing; labeling information including a device description, specifying that the device is intended to prevent TA-GVHD, and a warning that elevated levels of potassium have been reported in irradiated blood; software verification, validation, and hazard analysis; and electrical and electromagnetic compatibility testing.

FDA agrees with those 2012 Panel members who suggested a special control to require manufacturer training

of operators on device use is not necessary for reasonable assurance of safety and effectiveness for the device. FDA believes that the warnings and detailed procedures and information required by the proposed special controls in the labeling, including clear identification of intended operators, along with adequate warnings, are sufficient, together with other special controls, to mitigate against risks caused by operator error such as improper radiation dose to blood or blood products. FDA also notes 21 CFR 606.20, which among other things requires personnel responsible for the collection, processing, compatibility testing, storage or distribution of blood or blood components to have adequate training and experience, including professional training as necessary, or combination thereof, to assure competent performance of their assigned functions. There have been limited adverse events reported in the MAUDE database, including no reports that were a result of operator error. At this time, FDA believes a special control requiring separate operator safety training given by the manufacturer is unnecessary for reasonable assurance of safety and effectiveness of this device type.

FDA also disagrees with the 2012 Panel suggestion that a special control requiring a minimum dose homogeneity percentage and specification of a particular dose rate to be used when irradiating the blood or blood products is necessary for reasonable assurance of safety and effectiveness. FDA does not believe a minimum dose homogeneity percentage and specification of dose rate ensure that all blood within the container receive a minimum dose of 15 Gy of radiation, nor would they account for mechanisms implemented in device design to address dose inhomogeneity. Instead, to address risks from dose inhomogeneity, FDA is proposing special controls to ensure delivery of at least 25 Gy of radiation targeted to the central portion of the container and a minimum dose of at least 15 Gy at any other point within the container, and performance testing demonstrating conformance with the 25 Gy to the central portion of the container and 15 Gy minimum dose at any other point. FDA does agree with the Panel's suggestion that the manufacturer should provide information on the decay of the source and the residual strength of the source so that dose rate can be assessed. FDA also agrees with the Panel that the manufacturer should provide the dosimetric distribution. This information can be used by the operator

to make decisions on how to ensure requirements at individual blood irradiation facilities are met. FDA has included in the proposed special controls labeling controls that include information about the specifications of the device including: dose rate, dosimetric distributions including dose uniformity within each irradiation canister provided with the device, and a detailed procedure for identifying the proper loading configuration of blood and blood products in the canister.

As noted in Section III.C.1, at the 2012 Panel FDA suggested in the 2012 Panel materials compliance with NRC regulations as a mitigation for risks to health from improper radiation dose to blood and blood products, and radiation exposure to the user. We are not including compliance with NRC regulations as a special control in this proposed rule. FDA recognizes that devices containing sealed radiation sources and use of such devices by blood establishments may be subject to NRC regulations and that such regulations may have an effect on the safe use of the device. However, FDA believes that the proposed special controls for blood irradiators intended to prevent TA-GVHD, specifically, non-clinical performance testing demonstrating that the device performs as intended under anticipated conditions of use, which includes documentation demonstrating that safety features, including interlocks, access controls, and shielding perform as intended, labeling, and software verification, validation, together with general controls, are sufficient to provide reasonable assurance of safety and effectiveness of this device type.

Table 1 summarizes how each identified risk to health described in section V.B.1 would be mitigated by the proposed special controls. The mitigation measures in the table have been modified from those presented in Table III of the 2012 Panel Executive Summary during the 2012 Panel meeting (Ref. 1, Executive Summary). The language in Table 1 is more general and identifies the type of mitigation measure (e.g., labeling) rather than the specific method (e.g., ensure preventative maintenance program). The mitigation measures have also been modified to include the types of mitigation measures presented and identified at the 2012 Panel meeting (e.g., compliance with the 1993 CBER Memorandum) with more clarity and specificity regarding the special controls

needed to provide reasonable assurance of safety and effectiveness of the device.

Irradiation of blood and blood products to prevent TA-GVHD has been in routine use for decades. TA-GVHD occurs when viable T-lymphocytes in transfused blood or blood products engraft, multiply, and react against the tissues of the recipient. Gamma and x-ray radiation can abrogate the ability of lymphocytes to proliferate in vitro, and studies show that irradiation of at least 15 Gy (gamma irradiation) reduces lymphocyte response to mitogens by 90% (Refs. 3 and 16). The 1993 CBER Memorandum recommended that the dose of radiation delivered to the blood or blood product should be 25 Gy targeted to the central portion of the container and 15 Gy as the minimum dose delivered at any other point. To mitigate the risk of TA-GVHD in patients receiving a transfusion of blood or blood products due to the improper radiation dose being given to the blood or blood products, FDA believes that performance testing is needed to show that the device is capable of delivering the 25 Gy dose targeted to the central portion of the container and minimum 15 Gy dose at any other point within the container. To further mitigate against an improper dose of radiation being delivered to the blood or blood component, either due to operator error or device malfunction, the device function that allows the operator to identify if exposure was prematurely terminated must be validated, and any software functions must undergo software verification, validation, and hazard analysis. To further mitigate this risk, the device labeling must also include information that is needed by the operator to irradiate all contents of the container to the desired dose. This includes:

- A summary of the performance testing conducted that demonstrates that the device can deliver 25 Gy of radiation targeted to the central portion of the container and a minimum of at least 15 Gy of radiation at any other point within the container;
- A detailed procedure that allows the device operator to verify the minimum dose delivered during each use, the dose rate and dose delivered by the device to the container, and if the exposure has been prematurely terminated;
- A detailed procedure identifying the proper loading configuration of the blood or blood component within the canister and exposure chamber and

isodose curves for each loading configuration;

- Information about the specifications of the device—the dosimetric distributions within each canister provided with the irradiator measured both in air and loaded with water equivalent material, including dose homogeneity; and

- Instructions for device maintenance.

To mitigate the risk of damage to the blood or blood components from radiation, FDA believes that the labeling must include appropriate warnings and limitations needed for safe use, including statements that irradiation reduces the shelf stability of blood and that elevated potassium levels have been reported in irradiated red blood cell products.

To mitigate the risk of radiation exposure to the operator from the device, FDA believes that documentation is needed to demonstrate that the device performs as intended under anticipated conditions of use, including safety features of the device, which include its interlocks, access controls, and radiation shielding. For any safety features controlled by software, software verification, validation and hazard analysis of the features must be performed to ensure that these features perform as intended under anticipated conditions of use. Finally, to further mitigate this risk, FDA believes that labeling must include an identification of the safety features that enable operators to protect themselves and other nearby persons from unnecessary radiation exposure and the details of their specifications.

To mitigate against electrical shock or burns, FDA believes that adequate performance testing must demonstrate the electrical safety, mechanical safety, thermal safety, and electromagnetic compatibility of any electrical components of the device.

Finally, to mitigate against the risk of mechanical crush injury, FDA believes that labeling must include adequate warnings indicating that improper placement of hands or limbs could result in a mechanical crush injury.

Further, FDA believes that the special controls proposed for blood irradiators intended to prevent TA-GVHD, in addition to the general controls, mitigate the risks to health and are necessary to provide reasonable assurance of safety and effectiveness.

TABLE 1—IDENTIFIED RISKS TO HEALTH AND PROPOSED MITIGATION MEASURES FOR BLOOD IRRADIATORS INTENDED TO PREVENT TA-GVHD

Identified risks to health	Mitigation measures
Damage to blood or blood components from radiation	• Labeling. • Performance testing and descriptive information. • Software verification, validation, and hazard analysis.
Improper radiation dose to blood or blood products	
Unintended radiation exposure to the operator and others	• Labeling. • Performance testing and descriptive information. • Software verification, validation, and hazard analysis.
Electrical shock	
Mechanical crush or injury	• Labeling. • Electrical safety, mechanical safety, and thermal safety testing. • Electromagnetic compatibility testing.

VII. Premarket Approval for Class III Devices

FDA has determined that insufficient information exists to determine that general controls and special controls would provide a reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis and that these devices present a potential unreasonable risk of illness or injury based on the limited clinical information that is available. FDA found no evidence that the physical aspects (hardware and software) of blood irradiators intended to prevent metastasis pose a potential unreasonable risk of illness or injury. However, we found no available information about the short- and long-term safety risks presented by the intended use of blood irradiators intended to prevent metastasis, including cancer outcome, patient recovery, or survival. Given the limited reported clinical use of blood irradiators for the irradiation of intraoperative blood salvaged from cancer patients to assist in the prevention of metastasis in the published literature, the list of risks to health currently identified in this proposed classification action may not be exhaustive. For effectiveness, FDA found no definitive available evidence showing that irradiation of intraoperatively salvaged blood is able to prevent metastasis in patients or that it does not trigger an immunological response that could worsen patient prognosis (promote recurrence or invasiveness, or surgical recovery). In addition, the dose of radiation necessary to remove proliferative tumor cells is unclear, and the effects on the blood and blood products are unknown. Given the uncertainty about the extent of risks posed by the device, the lack of evidence supporting effectiveness, and a large amount of uncertainty surrounding the patient benefit from the device, FDA is proposing to classify blood irradiators intended to prevent metastasis into class III.

As required by section 515(b) of the FD&C Act, FDA is publishing elsewhere in this issue of the **Federal Register** a proposed order to require the filing of a PMA, which will be finalized if this classification action is finalized and these devices for this intended use are classified into class III. The proposed order also contains FDA's proposed findings regarding: the degree of risk of illness or injury designed to be eliminated or reduced by requiring that blood irradiators intended to prevent metastasis have an approved PMA when intended for use that includes delivering a controlled radiation dose to irradiate intraoperatively salvaged blood of cancer patients undergoing surgery to prevent metastasis and the benefit to the public from use of the device.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted to the public docket, postmarket data, adverse event reports in the MAUDE and MDR databases, information in CDRH's Medical Device Recalls database, and published scientific literature.

VIII. Proposed Effective/Compliance Dates

FDA proposes that any final rule based on this proposed rule become effective 30 days after its date of publication in the **Federal Register**. If this classification action is finalized, FDA proposes the implementation strategy set forth below.

A. Devices That Are Proposed To Be Classified Into Class II

- Blood irradiators intended to prevent TA-GVHD proposed to be classified into class II that have *not* been legally marketed prior to the effective date of any final rule, or blood irradiators intended to prevent TA-GVHD that have been legally marketed, but are required to submit a new 510(k) under 21 CFR 807.81(a)(3) because the

device is about to be significantly changed or modified and have not submitted such 510(k) by the effective date of any final rule: FDA is proposing that manufacturers would have to obtain 510(k) clearance before marketing the new or modified device and would be required to comply with the applicable special controls as of the effective date. We believe that 30 days is a reasonable effective date given that FDA would not have received updated submissions regarding, and therefore would not have familiarity with, the noncompliant devices in this category, and given the concern about the probable consequences of device failure, including TA-GVHD, which can result in patient death.

- Blood irradiators intended to prevent TA-GVHD proposed to be classified into class II that have been legally marketed prior to the effective date of any final rule and are not about to be significantly changed or modified in a manner that requires a 510(k), and blood irradiators intended to prevent TA-GVHD for which 510(k) submissions have been submitted before the effective date of any final rule: FDA generally does not intend to enforce compliance with the special control requirements, including the labeling requirements, for a period of 12 months following the effective date of the final rule, although FDA intends to carefully assess the application of this policy to any devices for which submissions are made between the date of publication of the final rule and the effective date. If a manufacturer were to market such a device after 12 months following the effective date of the final rule, and that device did not comply with the special controls, the enforcement discretion policy described above would no longer apply, meaning FDA would evaluate enforcement action against such a manufacturer under its usual approach. FDA believes that a period of one year from the effective date of this final rule would be appropriate for manufacturers

to come into compliance with such requirements, as we are generally familiar with these devices and we believe changes for existing devices to come into compliance are generally limited to minor labeling changes. We also believe this compliance period is appropriate to accommodate the reliance interests of manufacturers who have developed products and submitted premarket notifications based on the previous regulatory status quo, under which blood irradiators are subject to 510(k) requirements but not special controls. FDA believes this approach would help ensure the efficient and effective implementation of the classification action, if finalized as currently proposed.

B. Devices That Are Proposed To Be Classified Into Class III

- If this proposal to classify blood irradiators intended to prevent metastasis in class III and the related proposed order to require the approval of a PMA are finalized, blood irradiators intended to prevent metastasis by delivering a controlled radiation dose to irradiate intraoperatively salvaged blood of cancer patients undergoing surgery to prevent metastasis would be considered adulterated if either a PMA is not filed with FDA prior to the last day of the 30th calendar month beginning after the month in which the classification of the device into class III becomes effective or a PMA is filed but approval is denied, suspended, or withdrawn (see section 501(f)(1)(A) and 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(1)(A) and (2)(B))).

In this event, the device can no longer be introduced into interstate commerce (see, e.g., section 301(a) of the FD&C Act (21 U.S.C. 331(a))) unless it meets a relevant exemption, such as the exemption for investigational use devices. The requirements of the investigational device exemption regulations are set forth in 21 CFR part 812.

IX. Preliminary Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. Rules are economically significant under Executive Order 12866 if they have an annual effect on the

economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The Office of Information and Regulatory Affairs has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

Executive Order 14192 requires that any new incremental costs associated with certain significant regulatory actions “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This proposed rule, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because net annualized compliance costs of the proposed rule are more than 1 percent of average annual revenues and unquantified effects are uncertain, we find that the proposed rule will have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (Section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year.” The current threshold after adjustment for inflation is \$187 million, using the most current (2024) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

The proposed rule, if finalized, would classify blood irradiators (unclassified, preamendments devices) into two classes based on intended use. It would classify blood irradiators intended to prevent TA-GVHD into class II (special controls) and blood irradiators intended to prevent metastasis into class III (premarket approval application). The proposed special controls for blood irradiators intended to prevent TA-GVHD are already generally practiced by manufacturers of currently cleared devices, with the primary change consisting of the labeling special controls. FDA believes that the proposed special controls, together with

the general controls in the FD&C Act, would provide reasonable assurance of the safety and effectiveness of these devices and help ensure that all new devices meet the same standards as the currently marketed devices. FDA has determined that general controls and special controls together are insufficient to provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis, and that these devices present a potential unreasonable risk of illness or injury. Separately, FDA also is issuing a proposed order requiring the filing of a PMA for blood irradiators intended to prevent metastasis.

Quantified benefits of the proposed rule, if finalized, would consist of cost savings to industry and FDA from a reduction in the quantity and time burden of informal inquiries related to blood irradiators intended to prevent TA-GVHD. We also estimate cost savings to industry and FDA from a reduction in the number of 510(k) submissions necessitating requests for additional information from FDA before and during review. Industry and FDA could incur costs associated with premarket approval for current and future blood irradiators intended to prevent metastasis. Industry would incur costs to prepare and submit PMAs and annual and supplemental reports and costs to undergo facility inspections. In turn, FDA would incur costs to review and respond to PMAs and annual and supplemental reports, and costs to inspect facilities. We quantify the associated user fees for these PMAs and annual and supplemental reports as transfers from industry to FDA. We additionally quantify one-time costs to industry to read and understand the proposed rule and the proposed order requiring the filing of a PMA, as well as one-time costs to industry to revise labeling.

We summarize the quantified benefits and costs of the proposed rule, if finalized, in Table 2. We estimate that the annualized benefits over 10 years would range from \$84 to \$180,268 at a 7 percent discount rate, with a primary estimate of \$90,176, and from \$86 to \$184,271 at a 3 percent discount rate, with a primary estimate of \$92,178. The annualized costs would range from \$0.68 million to \$1.51 million at a 7 percent discount rate, with a primary estimate of \$1.07 million, and from \$0.66 million to \$1.53 million at a 3 percent discount rate, with a primary estimate of \$1.07 million.

TABLE 2—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF THE PROPOSED RULE
[Millions of 2024 dollars]

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered (years)	
Benefits:							
Annualized Monetized (\$m/year).	\$0.09	\$0.0001	\$0.18	2024	7	10	Estimated benefits are cost savings.
Annualized Quantified ..	0.09	0.0001	0.18	2024	3	10	
.....							
.....							
Qualitative							
Costs:							
Annualized Monetized (\$m/year).	1.07	0.68	1.51	2024	7	10	
Annualized Quantified ..	1.07	0.66	1.53	2024	3	10	
.....							
.....							
Qualitative							
Transfers:							
Federal Annualized Monetized (\$m/year).	0.05	0.03	0.07	2024	7	10	User fee payments associated with premarket approval for class III blood irradiator devices.
.....	0.05	0.03	0.07	2024	3	10	
.....							
.....							
Other Annualized Monetized (\$m/year).	.....	.....	.....	.....	.....	.....	
.....							
.....							
Effects:							
State, Local, or Tribal Government: None.							
Small Business: Quantified effects of more than 1 percent of average annual revenues and uncertain unquantified effects.							
Wages: None.							
Growth: None.							

We estimate that the present value of total benefits over 10 years would range from \$0.001 million to \$1.35 million at a 7 percent discount rate, with a primary estimate of \$0.68 million, and from \$0.001 million to \$1.62 million at a 3 percent discount rate, with a primary estimate of \$0.81 million. The

present value of total costs would range from \$5.09 million to \$11.38 million at a 7 percent discount rate, with a primary estimate of \$8.06 million, and from \$5.80 million to \$13.41 million at a 3 percent discount rate, with a primary estimate of \$9.39 million.

In line with Executive Order 14192, in Table 3 we estimate present and

annualized values of costs, cost savings, and net costs over a perpetual time horizon. We estimate that this proposed rule would generate \$570,338 in annualized net costs at a 7 percent discount rate, discounted relative to year 2024, over a perpetual time horizon.

TABLE 3—EXECUTIVE ORDER 14192 SUMMARY TABLE

[Millions of 2024 dollars, discounted over a perpetual time horizon relative to year at a 7 percent discount rate]

	Primary estimate	Low estimate	High estimate
Present Value of Costs	\$9.21	\$4.59	\$14.54
Present Value of Cost Savings	1.06	0.001	2.12
Present Value of Net Costs	8.15	4.59	12.42
Annualized Costs	0.64	0.32	1.02
Annualized Cost Savings	0.07	0.0001	0.15
Annualized Net Costs	0.57	0.32	0.87

Note: Due to uncertainty regarding future impacts of the proposed rule, if finalized, we assume that undiscounted costs and cost savings in years 10 through infinity would equal costs and cost savings in year 9. We assume that costs and cost savings would begin to accrue in 2028 (year 0).

We have developed a Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 17) and at <https://www.fda.gov/about-fda/economics-staff/regulatory-impact-analyses-ria>.

X. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no new collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

XII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the proposed rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

XIII. Consultation and Coordination with Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XIV. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at <https://www.regulations.gov>. References without asterisks are not on public display at <https://www.regulations.gov> because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

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List of Subjects in 21 CFR Part 892

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 892 be amended as follows:

PART 892—RADIOLOGY DEVICES

- 1. The authority citation for part 892 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 892.7000 to subpart G to read as follows:

§ 892.7000; Blood irradiator devices.

(a) *Identification.* A blood irradiator device is a prescription device used to deliver a controlled radiation dose to blood or blood products to prevent transfusion-associated graft-versus-host disease through delivery of a radiation dose to blood or blood products prior to transfusion or to irradiate intraoperatively salvaged blood in cancer patients undergoing surgery to assist in the prevention of metastasis. This generic type of device includes an x-ray or a sealed radionuclide radiation source.

(b) *Classification.*

(1) Class II (special controls) when intended to prevent transfusion-associated graft-versus-host disease through delivery of a radiation dose to blood or blood products prior to transfusion. The special controls for this device are:

(i) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use and must include:

(A) Documentation demonstrating that the device delivers a dose of at least 25 Gy of radiation targeted to the central portion of the container.

(B) Documentation demonstrating that the device delivers a minimum dose of at least 15 Gy of radiation at any other point within the container.

(C) Documentation demonstrating that safety features, including interlocks, access controls, and shielding, perform as intended.

(D) Validation of the method that allows the operator to identify if the exposure has been prematurely terminated.

(ii) Software verification, validation, and hazard analysis must be performed.

(iii) Performance testing must demonstrate the electrical safety, mechanical safety, thermal safety, and electromagnetic compatibility of any of the electrical components of the device.

(iv) Labeling must include:

(A) The intended use statement must specify that the device is intended to prevent transfusion-associated graft-versus-host disease.

(B) A summary of the performance testing conducted demonstrating that the device can deliver 25 Gy of radiation targeted to the central portion of the container and a minimum of at least 15 Gy at any other point within the container.

(C) A detailed procedure allowing the device operator to verify:

(1) The minimum dose delivered during each use;

(2) The dose rate and dose delivered by the device to the container; and

(3) If the exposure has been prematurely terminated.

(D) Identification of the safety features that enable operators to protect themselves and other nearby persons from unnecessary radiation exposure and details of their specifications.

(E) A detailed procedure for identifying the proper loading configuration of the blood or blood products within the canister and exposure chamber and isodose curves for each loading configuration.

(F) Information about the specifications of the device including:

(1) Dosimetric distributions, including dose uniformity, within each irradiation canister provided with the irradiator measured both in air and loaded with water equivalent material;

(2) Dose rate; and

(3) For radionuclide sealed radiation source irradiators, the strength of the source and the dose correction factor.

(G) Instructions for device maintenance, including:

(1) A recommended schedule of maintenance; and

(2) A recommended quality assurance program to ensure that the device continues to meet its specifications.

(H) A warning statement indicating that irradiation reduces the shelf stability of blood and blood products.

(I) A warning statement indicating that elevated potassium levels have been reported in irradiated red blood cell products.

(J) A warning statement indicating that improper placement of hands or limbs could result in a mechanical crush injury.

(2) Class III (premarket approval) when intended to irradiate intraoperatively salvaged blood in cancer patients undergoing surgery to assist in the prevention of metastasis.

(i) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before [DATE OF THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER EFFECTIVE DATE OF FINAL RULE], for any blood irradiator as identified in paragraph (b)(2) of this section that was in commercial distribution before May 28, 1976, or that has, on or before [DATE OF THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER THE EFFECTIVE DATE OF THE FINAL RULE], been found to be

substantially equivalent to any blood irradiator, that was in commercial distribution before May 28, 1976. Any other blood irradiator identified in paragraph (b)(2) of this section shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–05320 Filed 3–17–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 892

[Docket No. FDA–2025–N–5995]

Effective Date of Requirement for Premarket Approval Applications for Blood Irradiators Intended To Prevent Metastasis

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed amendment; proposed order.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) for blood irradiators intended to irradiate intraoperatively salvaged blood for cancer patients undergoing surgery to assist in prevention of metastasis, which are unclassified, preamendments devices. FDA is summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet PMA requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and the benefits to the public from use of the devices.

DATES: Either electronic or written comments on the proposed order must be submitted by May 18, 2026. FDA intends that, if a final order based on this proposed order is issued, anyone who wishes to market blood irradiators intended for use in the irradiation of intraoperatively salvaged blood for cancer patients undergoing surgery to assist in the prevention of metastasis must submit a PMA prior to the last day of the 30th calendar month beginning after the month in which the classification of the device in class III became effective. See section III for the effective date of any final order that may publish based on this proposed order. See section VI of this document for

more information about submitting a PMA.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 18, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2025-N-5995 for "Effective Date of Requirement for Premarket Approval Applications for Blood Irradiators Intended to Prevent Metastasis."

Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Julie Sullivan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3658, Silver Spring, MD 20993-0002, 240-402-4973, Julie.Sullivan@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The FD&C Act, as amended, establishes a comprehensive system for

the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three classes of devices reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three classes of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d)(1) of the FD&C Act, devices that were in commercial distribution before the enactment on May 28, 1976, of the 1976 amendments (Medical Device Amendments of 1976, Pub. L. 94-295) (generally referred to as "preamendments devices") are classified after FDA (we or the Agency) has: (1) received a recommendation from the appropriate device classification panel (which are part of the FDA Medical Devices Advisory Committee); (2) published the panel's recommendation and a proposed regulation classifying the device for comment; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

A person may market a preamendments device that has been classified into class III through premarket notification procedures, without submission of a PMA until FDA issues an administrative order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

Section 515(f) of the FD&C Act provides an alternative pathway for meeting the premarket approval requirement. Under section 515(f), manufacturers may meet the premarket approval requirement if they file a notice of completion of a product development protocol (PDP) approved under section 515(f)(4) of the FD&C Act and FDA declares the PDP completed under section 515(f)(6)(B) of the FD&C Act. Accordingly, the manufacturer of a preamendments class III device may comply with a call for PMAs by filing a PMA or a notice of completion of a PDP. In practice, however, the option of filing a notice of completion of a PDP has rarely been used. For simplicity, although the PDP option remains available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for filing and obtaining approval of a PMA.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) publication of a proposed order in the

Federal Register; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) the proposed order; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA, and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed order and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order,¹ consideration of comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

A preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order requiring premarket approval for the device, or 30 months after the classification of the device in class III under section 513 of the FD&C Act becomes effective, whichever is later (section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B))). Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify blood irradiators intended for use in the irradiation of intraoperatively salvaged blood for cancer patients undergoing surgery to assist in the prevention of metastasis (blood irradiators intended to prevent metastasis) into class III. Therefore, if the proposed classification regulation and the order to require

PMAs are finalized at the same time, a PMA for blood irradiators intended to prevent metastasis must be filed within the 30-month period because that will be the later of the two time periods. If a PMA is not timely filed for such devices, then the device would be deemed adulterated under section 501(f) of the FD&C Act.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) until the date identified by FDA in the final order requiring the filing of a PMA for the device (assuming it complies with other applicable FDA requirements). At that time, an IDE is required prior to interstate distribution of the device only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and obtains FDA approval, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE or otherwise exempt from the PMA requirements, the device is subject to enforcement action.

II. Regulatory History of the Devices

After the enactment of the Medical Device Amendments of 1976, FDA undertook an effort to identify and classify all preamendments devices in accordance with section 513(d) of the FD&C Act. Consistent with the FD&C Act, FDA held a Radiological Devices Panel meeting regarding the classification of blood irradiators, with product code “MOT,” on April 12, 2012 (2012 Panel) (Ref. 1). However, the 2012 Panel focused specifically on blood irradiators intended to irradiate blood and blood products to prevent transfusion-associated graft-versus-host disease (blood irradiators intended to prevent TA–GVHD), including those intended to inactivate leukocytes and/or lymphocytes to prevent TA–GVHD. The materials considered by the 2012 Panel noted that one device had been cleared at the time for the prevention of metastasis, but the classification of blood irradiators intended to prevent metastasis was not discussed at the 2012 Panel (Ref. 1).

On November 7, 2023, FDA held a Radiological Devices Panel meeting regarding the classification of blood irradiators intended to prevent metastasis (2023 Panel) (Ref. 2). FDA held the 2023 Panel to obtain input on the risks to health and benefits of blood irradiators intended to prevent metastasis. During the 2023 Panel

meeting, FDA presented proposed risks to health for these devices. FDA identified risks which included some of the same risks that had been identified during the 2012 Panel for blood irradiators intended to prevent TA–GVHD relating to the device’s hardware and software and some unique risks based on the device’s intended use to prevent metastasis. FDA noted that based on available information, long-term safety risks related to the device’s intended use are unclear. In addition, there appears to be a lack of clinical data to demonstrate a clear clinical benefit from use of blood irradiators intended to prevent metastasis. The 2023 Panel was asked to recommend to FDA whether blood irradiators intended to prevent metastasis should be classified into class III (premarket approval), class II (special controls), or class I (general controls).

The 2023 Panel reviewed the list of risks to health provided by FDA for blood irradiators intended to prevent metastasis and agreed with the risks to health identified by FDA. The 2023 Panel also identified several additional risks to health posed by the device’s intended use. The 2023 Panel agreed with FDA that the list of risks to health identified for this device type may not be exhaustive due to the limited reported clinical use of blood irradiators when used for the prevention of metastasis. The 2023 Panel also agreed that the benefits of irradiating intraoperatively salvaged blood for cancer patients undergoing surgery is unknown based on lack of scientific evidence.

The 2023 Panel recommended that blood irradiators intended to prevent metastasis be classified into class III because there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of safety and effectiveness, and these devices present a potential unreasonable risk of illness or injury given the lack of probable benefit. FDA agrees with the Panel’s recommendation that blood irradiators intended for the prevention of metastasis be classified into class III subject to PMA. It is also FDA’s position that there is a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of the device’s safety and effectiveness, and that the device presents a potential unreasonable risk of illness or injury.

Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify blood irradiators intended to prevent metastasis into class III. FDA has tentatively determined that requiring

¹ In December 2019, FDA began adding the term “Proposed amendment” to the **ACTION** caption for these documents to indicate that they “propose to amend” the Code of Federal Regulations. This editorial change was made in accordance with the Office of the Federal Register’s interpretations of the **Federal Register** Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

PMA approval, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of these devices. The proposed classification action would also establish the identification, classification, and regulatory controls for blood irradiators intended to prevent TA–GVHD. These devices have been subject to premarket review through a premarket notification (510(k)) submission and have been cleared for marketing if FDA considers the device to be substantially equivalent to a legally marketed predicate in accordance with section 513(i) of the FD&C Act. To date, FDA has cleared 16 of these devices and cleared only two devices of the device type that will be subject to the PMA requirements. For these two devices, the prevention of metastasis is a second intended use for the device in addition to the intended use to prevent TA–GVHD.

III. Dates New Requirements Apply

If FDA finalizes the proposed classification of blood irradiators intended to prevent metastasis, these devices will be classified into class III. In accordance with sections 501(f)(2)(B) and 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency for blood irradiators intended to prevent metastasis by the last day of the 30th calendar month beginning after the month in which the classification of the device in class III becomes effective.

An applicant whose product was in commercial distribution before May 28, 1976, or whose product has been found to be substantially equivalent to such a product, may continue marketing such class III product during FDA's review of the PMA, provided that a PMA is timely filed. FDA intends to review any PMA for the device within 180 days. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days, unless the Agency finds that “. . . the continued availability of the device is necessary for the public health.”

Moreover, manufacturers must cease distribution of blood irradiators intended to prevent metastasis upon receiving a denial decision rendered on a PMA. In such circumstances, to resume distribution of devices for this indication, these manufacturers must receive PMA approval for their devices. However, the product may be distributed for investigational use only if the requirements of the investigational device exemptions regulations in part 812 are met. The requirements for

investigational use of significant risk devices include submitting an IDE application to FDA for review and obtaining approval. An IDE application under 21 CFR 812.30 is required to be approved before an investigation of the device may be initiated or continued. FDA, therefore, recommends that IDE applications be submitted to FDA at least 30 days before the date a PMA is required to be filed to avoid interrupting investigations.

IV. Devices Subject to This Proposal

Blood irradiators intended to prevent metastasis are used to irradiate intraoperatively salvaged blood *ex vivo* from cancer patients undergoing surgery to assist in the prevention of metastasis. Blood lost during surgery is collected using a suction device and may be processed or filtered before the blood irradiator is used to irradiate the blood to prevent the proliferation of cancer cells that may be present. The blood is then reinfused to the same patient either intraoperatively or post-operatively in an autologous blood transfusion. These devices include an x-ray or a sealed radiation source. FDA currently regulates these unclassified devices as devices requiring a 510(k) submission under product code MOT.

Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify blood irradiators intended to prevent metastasis into class III. Blood irradiators are identified as follows: A blood irradiator device is a prescription device used to deliver a controlled radiation dose to blood or blood products. This generic type of device includes an x-ray or a sealed radiation source. Blood irradiators are class III when intended to irradiate intraoperatively salvaged blood in cancer patients undergoing surgery to assist in the prevention of metastasis.

In accordance with section 515(b)(2)(C) and (D) of the FD&C Act, interested persons are being offered the opportunity to comment or request a change on the Agency's proposed classification of blood irradiators intended to prevent metastasis published elsewhere in this **Federal Register**.

V. Proposed Findings With Respect to Risks and Benefits for Blood Irradiators Intended To Prevent Metastasis

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding: (1) the degree of risk of illness or injury designed to be eliminated or reduced by requiring that these devices have an approved PMA and (2) the benefits to the public from the use of the devices.

These findings are based on the reports and recommendations of the 2023 Panel, and any additional information that FDA has obtained. Additional information regarding the risks can be found below, as well as in the proposed rule published elsewhere in this issue of the **Federal Register**, proposing to classify these devices into class III.

Based on this information, FDA has identified the following risks to health of blood irradiators intended to prevent metastasis:

- *Damage to blood or blood components from radiation:* Irradiation of whole blood and red blood cells causes damage to red blood cells and lymphocytes within the blood. Radiation damages the membrane of red blood cells leading to higher concentrations of potassium in plasma, hemolysis (destruction of red blood cells), and decreased red blood cell viability and survival.

- *Unintended radiation exposure to the operator and others:*² Device malfunction, lack of adequate maintenance, inadequate shielding, or safety control or interlock failure could allow the operator to access the radiation source resulting in physical injury and/or exposure of the operator or other nearby persons to radiation. Exposure to ionizing radiation has been shown to increase cancer risk (Ref. 3). Insufficient presence of safety controls or interlocks within irradiator design may result in unintended exposure.

- *Electrical shock:*³ Electrical malfunction of the device or operator contact with an energized portion may result in electrical shock or burn. This can occur when there are insufficient or malfunctioning safety controls or interlocks.

- *Mechanical or crush injury:* Blood irradiators contain shielding materials to prevent excess radiation emission outside the device causing the device itself and many components to be heavy. Operator inattention or placement of body parts where they can be impinged by the device may result in physical injury to the operator.

² The original 2023 Panel materials denoted this risk as “Unintended radiation exposure to the operator and public”. We have updated the title of this risk to health to expressly reflect other persons who may be at risk of such exposure (e.g., patients, bystanders); the description of this risk to health is identical to what was included in the 2023 Panel materials.

³ The original 2023 Panel materials denoted this risk as “Electrical shock or burn.” We have updated the title of this risk to health to be consistent with the similar risk discussed for blood irradiators intended to prevent TA–GVHD in the proposed rule; the description of this risk to health is identical to what was included in the 2023 Panel materials.

- *Presence of proliferative malignant cells in re-transfused blood due to incorrect dose or improper dose of radiation delivered:* Incorrect dose of radiation identified to be effective or improper dose of radiation delivered due to operator error, device malfunction, lack of adequate maintenance, or lack of dosimetry or quality assurance checks, may result in tumor cell survival leaving proliferative (i.e., able to function, grow, and divide) tumor cells present in the blood.

- *Worsened control of oncologic disease or patient prognosis:* Irradiating blood or blood components may cause an immune response that negatively impacts cancer outcome or patient recovery or survival.

- *Delayed or lack of re-transfusion of irradiated blood or blood components:* Use of the device inherently delays re-transfusion and lengthens the duration of the operating procedure with larger volumes of blood irradiated adding a larger amount of additional operating procedure time. Device malfunction, including from mechanical, electrical, or software malfunctions, or operator error could lead to improper or no irradiation of the blood or blood components, which could add additional delay if the malfunction or error results in the salvaged blood not being suitable for re-transfusion into the patient. Delay in re-transfusion could increase risk to patients depending on their blood volume at any given point in the procedure. Longer operating times are associated with increased risks, including prolonged exposure to anesthesia and greater risk of infection.

- *Induction of a new cancer due to irradiation of the blood or blood components:* Irradiation of nucleated cells may result in malignant transformation as ionizing radiation exposure causes DNA damage that may result in downstream biologic effects (e.g., mutation, cell killing or carcinogenesis) (Ref. 4). Permanent DNA damage could result in the cells becoming malignant. Quantitative risk assessment of this phenomenon occurring in irradiated blood for the prevention of metastasis has not been performed. If blood salvage and processing, including irradiation, occurs multiple times, blood cells may be exposed to ionizing radiation multiple times. If those cells are returned into the body this could result in induction of a new cancer.

- *Risks associated with usability including irradiating the salvaged blood outside the operating room, and the potential for blood to be incorrectly labeled or misidentified:* Included in this risk to health are issues with

operating the device in a way that results in an incorrect blood product being given to the patient. For example, should blood irradiation be performed in a manner where blood or blood products from multiple patients are irradiated at one time, if the bags are labeled with the wrong patient information, or are thought to be irradiated, but are not, this could result in the patient receiving a transfusion of the wrong blood. This could include operator error or inadequate usability testing of the points of interaction between the device and the operator, including displays and instructions for use.

A. Summary of Data

FDA conducted a query of the Manufacturer and User Facility Device Experience (MAUDE) database and the Medical Device Report (MDR) database from 1984 through September 25, 2023, to identify adverse events related to use of blood irradiators, with product code MOT, which includes blood irradiators intended to prevent TA–GVHD and blood irradiators intended to prevent metastasis. The query resulted in the identification of five unique MDRs related to blood irradiators during that time period. No direct adverse events to patients were reported. FDA also conducted a query of Accidental Radiation Occurrences (AROs) reports during this time period. There were no AROs reported for devices under product code MOT. The MDR and ARO analyses showed few device malfunctions over the lifetime of use for these devices. Following these queries, FDA received one report of adverse events related to high current safety interlock system switch failures reported to result in superficial (first-degree) burns. FDA conducted updated queries for MDRs on July 7, 2025, and for AROs on November 7, 2024 and August 4, 2025. No additional reports were identified.

FDA reviewed recalls reported under product code MOT from November 2002 to June 22, 2025. There were two recalls for devices under product code MOT during that time period. The first recall was to complete a cooling system retrofit to preclude overheating and failure of the device. The recall was terminated May 13, 2012.⁴ The second recall was for non-compliance with the associated performance standards within 21 CFR Subchapter J Radiological Health. Specifically, the device failed to comply with the performance standard for cabinet x-ray

systems (21 CFR 1020.40)⁵ because an interlock was not directly linked to the door. To address this issue, the company completed repairs during annual routine preventive maintenance visits at the users' sites to minimize downtime, and the recall was terminated August 1, 2017.

Additionally, FDA conducted a systematic literature review for articles published between January 1, 2002, and April 20, 2023, to identify and gather relevant published information regarding the safety and effectiveness of blood irradiators intended to prevent metastasis. The review identified 10 articles which were determined to be relevant to the safety and effectiveness of blood irradiators used to prevent metastasis. (Ref. 2, Executive Summary at pp. 11–12). No articles provided information on the safety assessment of blood irradiators intended to prevent metastasis. No articles definitively evaluated the effect of salvaged blood irradiation on tumor recurrence or metastasis. Further, the articles showed a lack of consensus on the specific dose to use, and for which cancer type and surgical procedure. FDA also conducted an additional literature search on September 23, 2024 for articles published since the prior search using the same search terms and filters and found no additional articles relevant to the safety and effectiveness of blood irradiators intended to prevent metastasis published since the prior search. Consequently, FDA tentatively concludes there is inadequate information characterizing the safety and effectiveness of blood irradiators intended to prevent metastasis to establish special controls. The 510(k) clearances of these devices were based solely on nonclinical information and determinations of substantial equivalence to a preamendments device. In light of the available information regarding the risks to health with no information supporting the benefit of these devices, general controls, including the 510(k) requirement, appear inadequate to support a reasonable assurance of safety and effectiveness for these devices.⁶

⁵ A blood irradiator that includes an x-ray source meets the definition of a cabinet x-ray system found in § 1020.40(b)(3) because it consists of an x-ray tube installed in an enclosure intended to contain at least that portion of material, in this case blood or blood components, being irradiated, provides radiation attenuation, and excludes personnel from its interior during generation of x radiation.

⁶ The first blood irradiator that included an intended use to prevent metastasis was found to be substantially equivalent to a previously cleared device (i.e., the predicate), which has an intended use for the prevention of TA–GVHD only. At this time, FDA does not have records identifying a

⁴ For details about termination of a recall see 21 CFR 7.55.

On November 7, 2023, FDA convened the Radiology Device Panel (2023 Panel) described in section II (Ref. 2). The 2023 Panel members agreed that there is a lack of clinical data to demonstrate a clinical benefit regarding the use of blood irradiators intended to prevent metastasis. The 2023 Panel noted that it is unclear whether risks to health related to the device's intended use can be exhaustively identified. The 2023 Panel consensus was that blood irradiators intended to prevent metastasis present an unreasonable risk of illness or injury to the patient, especially given the lack of probable benefit. Additionally, the 2023 Panel consensus was that special controls could not be established to mitigate the risks to health associated with the device given the very limited data available. As such, the panelists agreed that blood irradiators intended to prevent metastasis should be classified as class III.

B. Benefits of the Device

As radiation is able to cause DNA damage in radiation-sensitive cancer cells and prevent those cells from proliferating (Ref. 5), the purported benefit of the use of blood irradiators intended to prevent metastasis is to prevent cancer cells present in the irradiated intraoperatively salvaged blood from causing metastasis after being reinfused into the patient. However, available evidence is inadequate to draw any definitive conclusions about the safety or effectiveness of this intended use (Ref. 2). FDA is not aware of clinical evidence supporting the benefit of the use of blood irradiators intended to prevent metastasis. FDA is proposing a PMA be filed to require that manufacturers demonstrate that a reasonable assurance of safety and effectiveness exists for blood irradiators intended to prevent metastasis.

C. Risks to Health

The risks associated with blood irradiators intended to prevent metastasis includes damage to blood or blood components from radiation, unintended radiation exposure to the operator and public, electrical shock, mechanical crush or injury, presence of proliferative malignant cells in re-transfused blood due to incorrect dose or improper dose of radiation delivered, worsened control of oncologic disease or patient prognosis, delayed or lack of

re-transfusion of irradiated blood or blood components, induction of a new cancer due to irradiation of the blood components, and risks associated with usability including irradiating the salvaged blood outside the operating room and the potential for blood to be incorrectly labeled or misidentified.

FDA agrees with the 2023 Panel that there is a lack of probable benefit for these devices based on available information and has tentatively determined that blood irradiators intended to prevent metastasis present a potential unreasonable risk of illness or injury. FDA does not believe the special controls proposed for blood irradiators intended to prevent TA–GVHD are sufficient to provide reasonable assurance of safety and effectiveness for blood irradiators intended to prevent metastasis. FDA has identified additional risks to health posed by the intended use for prevention of metastasis for which it does not have adequate information to establish special controls. Additionally, FDA agrees with the 2023 Panel that the identified risks for this intended use may not be exhaustive. FDA further agrees that because insufficient information exists to determine that general and special controls are sufficient to provide reasonable assurance of the safety and effectiveness, blood irradiators intended to prevent metastasis should be class III subject to PMA.

VI. PMA Requirements

A PMA for blood irradiators intended to prevent metastasis must include the information required by section 515(c)(1) of the FD&C Act and 21 CFR 814.20. Such a PMA should also include a detailed discussion of the risks identified in section V, as well as a discussion of the effectiveness of the product for which premarket approval is sought. In addition, a PMA must include all data and information on the following: (1) any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought (see section 515(c)(1)(A) of the FD&C Act; 21 CFR 814.20(b)(8)).

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the blood irradiator to prevent metastasis for its intended use (see 21 CFR 860.7(c)(1)). FDA defines valid

scientific evidence in 21 CFR 860.7(c)(2).

To present reasonable assurance of safety and effectiveness of blood irradiators intended to prevent metastasis, FDA tentatively concludes that manufacturers should submit performance testing, including clinical studies of their product, to support PMA approval. Existing published clinical literature relevant to the product may also be leveraged as part of the PMA submission. In addition, FDA strongly encourages manufacturers to meet with the Agency early through the Q-Submission Program⁷ for any assistance in preparation of their PMA.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

While this proposed order 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 814, subparts A through E, have been approved under OMB control number 0910–0231; and the collections of information in part 812 have been approved under OMB control number 0910–0078.

IX. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective on the date of its publication in the **Federal Register** or at a later date if stated in the final order.

X. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information

⁷ See FDA guidance, “Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program; Guidance for Industry and Food and Drug Administration Staff,” May 29, 2025, available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/requests-feedback-and-meetings-medical-device-submissions-q-submission-program>.

preamendments device with an intended use other than to prevent TA–GVHD. As reflected in this proposed order, and for the reasons described in section V, FDA is proposing to separately classify these two device types.

relevant to the classification of the device. A request for a change in the classification of blood irradiators for the prevention of metastasis, as described in this document, should be provided in response to the proposed rule issued elsewhere in this issue of the **Federal Register** and contain the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

XI. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. References without asterisks are not on public display at <https://www.regulations.gov> because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

- *1. Radiological Devices Panel “April 12, 2012: Meeting Materials FDA Generated—Blood Irradiators.” Available at <https://wayback.archive-it.org/7993/20170403223422/https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/RadiologicalDevicesPanel/ucm299053.htm>.
- *2. Radiological Devices Panel, “November 7, 2023: Radiological Devices Panel of the Medical Devices Advisory Committee Meeting.” Available at <https://www.fda.gov/advisory-committees/radiological-devices-panel/2023-meeting-materials-radiological-devices-panel>.
- *3. National Cancer Institute. “Risk Factors—Radiation” (2019). Available at: Risk Factors: Radiation—NCI ([canchttps://www.cancer.gov/about-cancer/causes-prevention/risk/radiation.gov](https://www.cancer.gov/about-cancer/causes-prevention/risk/radiation.gov)) (last accessed September 5, 2025).
4. Hall EJ and Giaccia, A. (2011) Radiobiology for the Radiologist. 7th Edition, Lippincott Williams & Wilkins, Philadelphia. Chapter 2: Molecular Mechanisms of DNA and Chromosome Damage and repair, pp. 12–34, and Chapter 10: Radiation Carcinogenesis, pp. 135–158.
5. Joiner, M. and van der Kogel, A. (Eds) (2009), Basic Clinical Radiobiology. 4th Edition, CRC Press, London. Chapter 3: Cell Death After Irradiation: How, When and Why Cells Die (BG Wouters), pp. 27–40 and Chapter 7 (D Zips): Tumour Growth and Response to Radiation, pp. 78–101.

List of Subjects in 21 CFR Part 892

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 892 be amended as follows:

PART 892—RADIOLOGY DEVICES

- 1. The authority citation for part 892 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371

- 2. Amend § 892.7000, as proposed to be added in Docket No. FDA–2025–N–5996, published elsewhere in this issue of the **Federal Register**, by adding paragraph (b)(2)(i) to read as follows:

§ 892.7000 Blood irradiator devices.

* * * * *

(b) * * * * *

(2) * * * * *

(i) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before [DATE OF THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER EFFECTIVE DATE OF FINAL RULE], for any blood irradiator as identified in paragraph (b)(2) of this section that was in commercial distribution before May 28, 1976, or that has, on or before [DATE OF THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER EFFECTIVE DATE OF FINAL RULE], been found to be substantially equivalent to any blood irradiator that was in commercial distribution before May 28, 1976. Any other blood irradiator identified in paragraph (b)(2) of this section shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05322 Filed 3–17–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 260303–0061]

RIN 0648–BN58

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Texas Parks and Wildlife Department Fisheries Research

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a request from the Texas Parks and Wildlife Department (TPWD) for authorization to take marine mammals incidental to fisheries research in the coastal bays of Texas, over the course of 5 years from the issuance of a final rule and Letter of Authorization (LOA). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS proposes regulations setting forth permissible methods of taking, other means of effecting the least practicable adverse impact on such marine mammal stocks (*i.e.*, mitigation measures), and requirements pertaining to monitoring and reporting such takes, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the promulgation of the requested MMPA regulations, and NMFS’ responses to public comments will be summarized in the final rule announcing our decision.

DATES: Comments and information must be received no later than April 17, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2025-0141>. You may submit comments on this document, identified by NOAA–NMFS–2025–0801, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2025–0801 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-

West Highway, Silver Spring, MD 20910–3225.

• Fax: (301) 713–0376.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

A copy of the TPWD’s application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-texas-parks-and-wildlife-departments-independent-fisheries>.

In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

This proposed rule, to be issued under the authority of the MMPA (16 U.S.C. 1361 *et seq.*), establishes a framework for authorizing the take of marine mammals incidental to fisheries-independent research conducted by the TPWD in Texas bays and estuaries. TPWD fisheries research has the potential to take marine mammals due to possible physical interaction with fishing gear (i.e., gillnets). TPWD submitted an application to NMFS requesting 5-year regulations and a letter of authorization (LOA) to take bottlenose dolphins (*Tursiops truncatus*) from seven stocks, by mortality/serious injury or injury (Level A harassment) incidental to research activities using gillnet fishing gear in Texas bays. The regulations would be valid for 5-years from the effective date of the final rule.

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, regulations are promulgated (when applicable), and public notice and an opportunity for public comment are provided.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” (i.e., mitigation) on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds and areas of similar significance, and the availability of the species or stocks for taking for certain subsistence uses, and must set the requirements pertaining to the mitigation, monitoring and reporting of the takings.

Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I, provide the legal basis for proposing and, if appropriate, issuing 5-year regulations and associated Letters of Authorization. This proposed rule also identifies a suite of proposed mitigation, monitoring, and reporting requirements for TPWD’s activities.

Summary of Major Provisions Within the Proposed Regulations

The following is a summary of the major provisions of this proposed rulemaking regarding TPWD’s fisheries research:

- TPWD staff and others involved in the proposed research activities will be required to attend the Protected Species Safe Handling, Release, and Identification Workshops prior to conducting the fisheries research activities.

- TPWD would eliminate dolphin “hot spot” sampling grids where bottlenose dolphins have been taken more than once since the beginning of the survey or grids where multiple adjacent grids have had at least one bottlenose dolphin encounter.

- TPWD would minimize soak time by utilizing the “last out/first in” strategy for gillnets set in grids where bottlenose dolphins have been encountered within the last 5 years.

- TPWD would set only new or fully repaired gillnets thereby eliminating

holes greater than 6 inches (in) (15 centimeter (cm)) stretched mesh.

- TPWD would set gillnets with minimal slack and a short marker buoy attached to the deep end of the net.

- Staff would immediately respond to any net disturbance observed while gear is soaking.

- TPWD would modify gillnets to avoid more than a 4- in (10-cm) gap between float/lead line and net when net is set.

- TPWD would conduct dedicated marine mammal observations at least 15 minutes prior to setting nets and avoid setting nets if dolphins are observed at or approaching within the survey area.

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) 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 incidental harassment authorization (IHA) is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (collectively referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below and can be found in section 3 of the MMPA (16 U.S.C. 1362) and NMFS regulations at 50 CFR 216.103.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO)

216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an LOA) with respect to potential impacts on the human environment.

In accordance with the NEPA (42 U.S.C. 4321 *et seq.*) and NOAA policy and procedures (NOAA Administrative Order 216–6A and its Companion Manual), NMFS has prepared a draft environmental assessment (EA) analyzing the potential impacts of NMFS' proposed action of issuance of this rule and LOA(s). NMFS is seeking public comment on the draft EA. The draft EA is available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-texas-parks-and-wildlife-departments-independent-fisheries> for a 30 day public comment period. NMFS will consider all comments submitted in response to this notice prior to concluding the NEPA process or making a final decision on the request for regulations and a LOA(s).

Summary of Request

On October 31, 2023, NMFS received a request from TPWD for a rulemaking and associated 5-year LOA to take marine mammals incidental to fisheries research activities. Following NMFS' review of the application, TPWD submitted a revised version on March 3, 2025. NMFS deemed TPWD's application adequate and complete on May 12, 2025. TPWD's request is for take of bottlenose dolphins by mortality

and serious injury (M/SI) and by Level A harassment.

A notice of receipt of the application submitted by TPWD was published in the **Federal Register** on May 19, 2025, with a 30-day comment period. During the comment period NMFS received 50 comments from members of the public regarding TPWD's application for an incidental take authorization. Of the 50 comments received, 49 of them expressed general support for TPWD's request. One comment was opposed to issuing a LOA to TPWD citing that TPWD did not have a clear description in their application of how take was estimated for each stock of bottlenose dolphins, disagreed that TPWD's proposed gillnet configuration would allow entangled dolphins to breathe, and concerns that NMFS may not be able to make a negligible impact determination. NMFS has considered these comments in the preparation of this proposed rule.

Description of Proposed Activity

Overview

TPWD conducts a long-term standardized fishery-independent monitoring program to assess the relative abundance and size of finfish and shellfish in Texas bays. Results from this program are primarily used by TPWD to manage Texas' marine finfish and shellfish resources. Data gathered through the survey are also used by multiple other state and federal

agencies, universities, non-governmental organizations, and the private sector. The use of gillnets during these surveys may result in take by Level A harassment (injury) or M/SI of marine mammals.

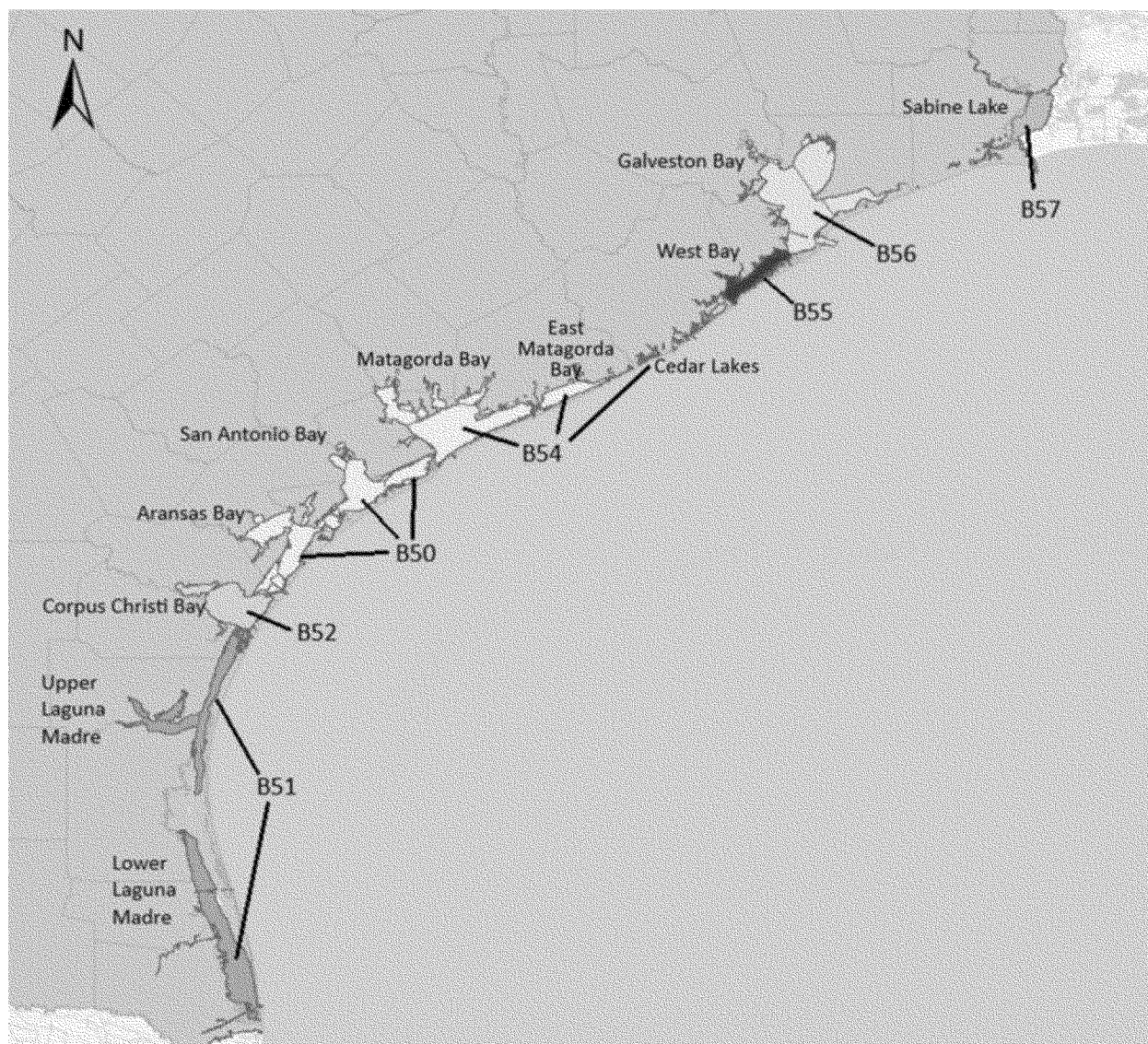
Dates and Duration

These gillnet surveys are conducted throughout the coastal bay system of Texas and occur in the spring and fall. The spring season begins with the second full week in April and extends for 10 weeks. The fall season begins with the second full week in September and extends for 10 weeks. TPWD expects to set 780 gillnets annually within the Texas bay system.

Specific Geographic Region

Gillnets would be used in each of the 10 major Texas bay systems: Sabine Lake, Galveston, Cedar Lakes, East Matagorda, Matagorda, San Antonio, Aransas, Corpus Christi, upper Laguna Madre, and lower Laguna Madre (see figure 1). Each bay is separated into 1 minute by 1 minute grid cells and sampling sites are chosen at random. These bays consist of open-bay bottom (*i.e.*, mainly sand and mud bottom) habitat which are influenced by ocean waters through inlets. Marshes and intertidal flats typically make up the edges of the bays and are made up of relatively shallow water (Armstrong 1987).

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Figure 1. Project Area for the TPWD Gillnet Sampling Activities

Detailed Description of the Specified Activity

Gillnet Gear and Sampling Description

The TPWD bay gillnet finfish surveys, conducted in the spring and fall, provide fishery-independent measures of adult and subadult finfish relative abundance, diversity, and age and size distributions in Texas waters. Samples collected from this survey provide data for genetics, life history, and age and growth analyses. Seasonal sampling helps to address seasonal differences in fish behavior, diversity, and relative abundance in the coastal bay systems of Texas. Nets are set at least 1 hour before sunset, soak overnight, and are retrieved within 4 hours of sunrise.

Each coastal bay is divided into 1 minute latitude by 1 minute longitude grids (see figure 6 a-f in TPWD's application). One grid is selected for each net to be set and that grid will only be chosen once in a given season (*i.e.*, spring or fall). Prior to each gillnet season, the grids that will be sampled that season are randomly selected from the subset of grids called gridlets. The specific sample sites are then randomly selected from gridlets (5 second latitude by 5 second longitude divisions, 144 per grid) that contain less than 15.2 m of shoreline. If it is determined in the field that the randomly selected gridlet cannot or should not be sampled, the nearest 15.2 m section that can be safely sampled is designated as an alternate. No more than one gillnet is set in the same grid on any night or is set more than one time in the same grid in a season. Gillnets set on the same night must be at least 1 kilometer (km) apart

in all directions. If adjacent grids are randomly selected and are to be sampled on the same night, one of the grids is chosen at random and then a gridlet is selected. The gridlet in the adjacent grid is chosen from all gridlets that are at least 1 km from the initial selected site.

The gear configuration of the gillnets includes variable mesh sizes to target different size fishes. This includes juvenile and mature finfish species, which provide data on the size and age structure of the finfish community. The data collected in the TPWD bay gillnet sampling activities provide a fishery-independent measure of adult and subadult finfish abundance which can be used to complement fishery-dependent data and is used by TPWD to manage many of the coastal Texas finfish species.

The gillnets used by TPWD are made of monofilament mesh at 1.2 meters (m)

in height attached to a lead line made of a braided line with a solid core with a breaking strength of 22.7 kilograms at a length of 18.9 m. on the bottom of the net and a float line at the top of the net with hard plastic bullet shape floats spaced 101 cm to 114 cm apart. The total length of a net is 182.9 m with 45.7 m sections of 7.6 cm, 10.2 cm, 12.7 cm, and 15.2 cm stretched mesh joined together with monofilament line up the entire height of the net, with no gaps between the different mesh sizes, to make one continuous net (see figure 2 of TPWD's application).

The gillnets set by TPWD are set perpendicular to the shoreline with the smaller mesh end of the net anchored to the shoreline and the progressively larger mesh extending seaward for 182.9 m (see figures 4 and 5 of TPWD's application). When deployed the nets are pulled tight to remove any slack while the net is fished in turn, reducing the likelihood of marine mammal entanglement. Gear retrieval occurs at sunrise or no later than 1 hour after sunrise and within 4 hours of sunrise all nets are retrieved. TPWD typically fishes gillnets for 12 to 14 hours once the gillnets are set. TPWD's use of gillnets is likely to result in incidental take of bottlenose dolphins, including M/SI.

Gulf Finfish and Shellfish Trawl Surveys

TPWD conducts Gulf Finfish and Shellfish Trawl Surveys in open waters of the Texas Territorial Sea (state waters 0–13 (0–21 km) nautical miles adjacent to inlets of coastal bays) in waters seaward of the Texas shoreline to determine relative abundance, size, distribution, and species composition of various life history stages of fish and invertebrates.

These surveys are conducted in the same manner as the Interjurisdictional Fisheries Act (IJA) Open Bay Shellfish Trawl Survey, which outlines standardized gear configuration and sampling protocols for trawl gear for shellfish sampling. The trawl configuration is 6.1 m wide otter trawls with 38 millimeters (mm) stretched nylon multifilament mesh throughout. Trawl doors are 1.2 m long, and 0.5 m wide and constructed of 13 mm plywood with angle iron framework and iron runners. Trawls would be deployed from research vessels and towed at 4.8 km per hour (kmh), actively towed for 10 minutes, and retrieved aboard the vessel. As vessels tow the trawl gear the vessel would travel parallel to a designated fathom curve. TPWD's gulf trawls are identical in gear, speed, and duration as the bay trawls. TPWD has

never incidentally taken a bottlenose dolphin or any other marine mammal during the gulf and bay trawls during the history of the program. On average the TPWD will deploy 80 gulf trawls per month/960 per year and 1,080 bay trawls per year. Given that there have been no incidental takes of bottlenose dolphins or any other marine mammal over the course of the trawl survey TPWD does not anticipate take to occur incidental to this activity.

Oyster Reef Surveys

Oyster reef surveys are conducted by TPWD to collect data on oyster populations in the surrounding coastal waters of Texas. Oyster dredge samples are collected from areas in which Eastern oysters form consolidated oyster reef/habitat and exhibit ≥ 0.2 m (6 in) vertical relief from adjacent bay bottom for a continuous distance of at least 91.4 m (300 ft) in length by 0.5 m (1.5 ft) in width. Sampleable reefs must be located at a water depth of ≥ 1 m (3 ft) during mean low tide on current nautical charts. All known mapped oyster reefs/habitats are included as oyster habitat strata for potential oyster dredging sites.

The coastal fisheries oyster dredge gear used by TPWD during the oyster surveys consist of a frame and a bag. The frame, constructed with 13-mm cold rolled steel rod, is 0.5 m wide, 0.24 m high and 1 m long (figure 1 of TPWD's application). The bag, constructed with metal rings, metal s-hooks and nylon rope, is 0.36 m deep with 76-mm stretched mesh braided nylon solid core webbing (see figure 1 of TPWD's application). The dredge is deployed from either skiffs or research vessels, towed along the known contour of the oyster reef at 4.8 kmph for 30 seconds, and retrieved aboard the vessel. Due to the small size of the oyster dredges, structure, short tows, and slow speeds TPWD considers this gear to be a very low risk for bottlenose dolphin encounters. The oyster dredge is towed approximately 100 times per month and 1,200 times per year.

TPWD is also conducting comparison studies using oyster tongs to collect oyster reef data. Hydraulic tongs are 0.447 m wide by 0.532 m deep (covering a total area of 0.238 m²). They are affixed to a hydraulic winch via steel cable or winch rope. When deployed, tongs are lowered from the side of a vessel and allowed to rest completely on the bottom before being hydraulically closed and retrieved. NMFS does not expect the use of the oyster dredge or the oyster tongs by TPWD to result in the take of bottlenose dolphins or any other marine mammal.

Habitat Mapping

TPWD also utilizes bathymetric sidescan sonar and singlebeam echosounders to characterize and map aquatic habitats, select sites for oyster restoration, and conduct post-restoration habitat monitoring. Habitat mapping is critical to informing resource management decisions, allowing TPWD to evaluate how habitat distribution and health have changed over time, and prioritize conservation and restoration efforts to address habitat loss in certain locations.

Using sonar is critical to the success of oyster restoration projects as it is used in both the planning and evaluation of these projects. TPWD uses non-impulsive intermittent sonar surveying equipment, including multi-frequency bathymetric sidescan sonar, single-frequency singlebeam echosounders, and single-frequency split-beam echosounders. TPWD collects bathymetric sidescan sonar data using a dual-frequency EdgeTech 6205 units. This unit operates at both 230 and 550 kilohertz (kHz) simultaneously, has a maximum source level of 200 dB (decibels) ref 1 uPa (micro Pascals), a pulse rate of 15 seconds and a pulse duration of 1 millisecond (ms). TPWD also uses various recreational grade sidescan sonar units, such as Humminbird and Garmin, for intermittent survey work for very small projects. The frequency of these units ranges from 200 kHz to 1200 kHz. These units are used to inform sampling locations for fisheries-independent oyster monitoring, as well as for planning and monitoring oyster restoration projects. All units used are in a downward-looking position with no tilt. These sidescan sonars operate at a frequency outside the hearing range of bottlenose dolphins (*i.e.*, >160 kHz) and therefore, NMFS does not expect the use of this sonar to result in take of bottlenose dolphins or any other marine mammal.

TPWD also collects singlebeam echosounding data using Biosonics DT-X systems with one single-beam 120 kHz echosounder and one split-beam 426 kHz echosounder. The Biosonic DT-X system has user-defined ping rate ranging from 0.01 to 30 pings per second and is typically operated at 10 pings per second. Pulse duration is user-selectable between 0.1 to 1.0 ms and is typically operated at 0.2 ms.

The beam pattern of the Biosonics DT-X 120 kHz is extremely narrow (*i.e.*, 10 degrees) and at that frequency and echosounder is oriented downward (not obliquely) in waters with an average depth of 2.5 m, thus ensonifying a very

small circular area approximately 0.5 m in diameter. The echosounder uses a rapid duty cycle of 0.002 with pulse durations of 0.2 ms and a pulse rate of 10 pulses per second. This results in an extremely short duration of ensonification and reduces the effective source level (NMFS 2020). Because of the orientation, shallow water depths (<4 m), beam pattern, and rapid duty cycle, we would only expect minimal exposures within this frequency. A study investigating the impact of a similar echosounder system as the one used by TPWD (a 120 kHz singlebeam echosounder with a beam width of 7 degrees and a source level of 230 dB) found that likelihood of TTS occurs only in a small volume of water immediately under the transducer (Boebel *et al.* 2005). NMFS does not expect the take of any marine mammals incidental the use of these echosounders during habitat mapping activities.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of TPWD's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment

Reports (SARs) (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs) defined in section 3 of the MMPA (16 U.S.C. 1362(20)). Since serious injury or mortality is anticipated to be authorized under this action, PBR and annual M/SI from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

To provide a background for how estuarine bottlenose dolphin stocks are identified, we provide the following excerpt from the Bottlenose Dolphin Stock Structure Research Plan for the Central Northern Gulf of America (GOA) (NMFS 2007) which more specifically describes the stock structure of bottlenose dolphins within the bays, sounds, and estuaries of the GOA. The distinct stock status for each of the 31

inshore areas of contiguous, enclosed, or semi-enclosed bodies of waters is community-based. That is, stock delineation is based on the finding, through photo-identification (photo-ID) studies, of relatively discrete dolphin "communities" in the few GOA areas that have been studied (Waring *et al.*, 2007). This finding was then generalized to all enclosed inshore GOA waters where bottlenose dolphins exist. A "community" consists of resident dolphins that regularly share large portions of their ranges and interact with each other to a much greater extent than with dolphins in adjacent waters. The term emphasizes geographic and social relationships of dolphins. Bottlenose dolphin communities do not necessarily constitute closed demographic populations, as individuals from adjacent communities may interbreed.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2024 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES¹ LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	Potential biological removal	Annual M/SI ⁴
Order Artiodactyla—Cetacea—Odontoceti (toothed whales)						
<i>Family Delphinidae:</i> Bottlenose Dol- phin.	<i>Tursiops</i> <i>truncatus</i> .	Laguna Madre	- , - , Y	80 (1.57, UNK, 1992)	UND	0.8
		Matagorda Bay, Tres Palacios Bay, Lavaca Bay	- , - , Y	61 (0.45, UNK, 1992)	UND	0.4
		Nueces Bay, Corpus Christi	- , - , Y	58 (0.61, UNK, 1992)	UND	0.2
		Copano Bay, Aransas Bay, San Antonio Bay, Redfish Bay, Espiritu Santo Bay.	- , - , Y	55 (0.82, UNK, 1992)	UND	0.6
		Galveston Bay, East Bay, Trinity Bay	- , - , N	842 (0.08, 787, 2016)	6.3	1
		West Bay	- , - , N	37 (0.05, 35, 2015)	0.3	0
		Sabine Lake	- , - , N	122 (0.19, 104, 2017)	0.9	0

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal 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. As discussed below N_{min} values for the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay Stock, Nueces Bay/Corpus Christi Bay Stock, and the Laguna Madre Stocks have been updated based on a photo identification survey conducted by Texas A&M University.

⁴ These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

As indicated above, bottlenose dolphins (with seven managed stocks) listed in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.

Texas Bay, Sound, and Estuary (BSE) Bottlenose Dolphins

Bottlenose dolphins have been identified in seven distinct coastal stocks within the inner estuaries of Texas (table 1). Shane (1977) and Gruber (1981) documented year-round residency of individual common bottlenose dolphins in some of the estuarine waters of Texas coastal bays. Analysis of genetic data supports the fact that many of the coastal Texas stocks are comprised of resident populations (NMFS 2021). In general, the Texas coastal stocks only occur in discrete BSE waters. However, it has been documented that limited mixing does occur in the passes of the Gulf of America with other non-resident stocks (NMFS 2021).

NMFS has acknowledged that as additional information about these BSE stocks becomes available, combination or further division of the stocks or modification of the stock boundaries may be warranted (NMFS 2021). Population size across the seven coastal stocks in Texas is a wide range (e.g., N 37–842).

NMFS used unpublished data provided by the Southeast Fisheries Science Center (SEFSC) for a population estimate to update the Matagorda Bay,

Tres Palacios Bay, Lavaca Bay stock. The SEFSC conducted stock structure research (biopsy sampling surveys) from 2012–2014. During the biopsy sampling, photos were taken for photo-ID and 285 individual dolphins with distinct dorsal fins were identified within this stock's boundaries (NMFS SEFSC, UNPUBLISHED DATA). This provided an abundance estimate (N_{best}) of 150 individuals from this stock. The N_{best} value of 150 individuals was used to calculate an estimated PBR for this stock given one is not available in the recent SARs.

Recently, the SEFSC, in collaboration with Texas A&M University researchers, developed provisional minimum population estimates or N_{mins} for three of the seven stocks that had unknown N_{mins} ; these included the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay Stock, Nueces Bay/Corpus Christi Bay Stock, and the Laguna Madre Stock. The report used photo-identification data collected by Texas A&M University of these stocks from 2018 to 2025. Individual animals were assigned to a stock based on the majority of their sighting locations. For individuals sighted one time, data was examined from animals seen multiple times to estimate the probability of a given stock assignment conditional on its being seen within a given stock area on its first observation. A transient area was defined for the Aransas Pass and animals sighted in that area were not included in the population estimate due

to the likelihood of sighted animals being from coastal stocks. Additional details on the methods used by the SEFSC are in the 2025 report which is available on the NMFS website at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-texas-parks-and-wildlife-departments-independent-fisheries>.

NMFS then used these updated N_{min} values to calculate PBR values for the three stocks (Garrison 2025). The PBR formula NMFS used to calculate PBR is $(N_{min} * 0.5R_{max} * F_r)$ where R_{max} is the maximum net productivity rate and the F_r is the recovery factor. The R_{max} and the F_r values for bottlenose dolphins are available in table 1 of the draft 2024 SARs. The data used for each stock and resultant PBR is shown in table 2.

The stocks for which NMFS proposes to authorize take associated with the TPWD's gillnet fisheries research are grouped in the GOA BSE SAR. As discussed above, NMFS received data from Texas A&M researchers and consulted with the SEFSC to develop updated N_{min} estimates for the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay stock, Nueces Bay/Corpus Christi Bay stock, and the Laguna Madre stock. Further, information was available from the SEFSC for the Matagorda Bay/Tres Palacios Bay/Lavaca Bay stock that informed population estimates. For the remaining stocks NMFS is proposing to use the information from the SARs for M/SI and N_{min} values.

TABLE 2—CALCULATED PBR VALUES FOR THREE STOCKS OF TEXAS BSE BOTTLENOSE DOLPHINS

Stock	N_{min} (Garrison 2025)	R_{max}	F_r	PBR
Copano Bay, Aransas Bay, San Antonio Bay, Redfish Bay, Espiritu Santo Bay	669	0.04	0.4	5
Nueces Bay, Corpus Christi	1,744	0.04	0.4	14
Laguna Madre	222	0.04	0.4	2

NMFS considered take by M/SI relative to residual PBR (i.e., the PBR value subtracted from the estimate of ongoing anthropogenic M/SI). NMFS gathered information on reported serious injury determinations from Maze-Foley and Garrison (2024) and reported mortalities from the Marine Mammal Stranding Database (excluding those that have occurred during the proposed TPWD surveys) to estimate annual rates of M/SI (table 7) (see the Negligible Impact Determination section for additional description of residual PBR and how it is calculated). NMFS

identified five mortalities and 10 serious injuries over the 2019 to 2023 time period as analyzed in Maze-Foley and Garrison (2024) (the most recent information available). Three of the five mortalities were from hook and line fishing gear, two of which were from the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay and the remaining one from the Nueces Bay/Corpus Christi Bay stocks. The other two mortalities were determined to be from vessel strikes and were from the Nueces Bay/Corpus Christi Bay and Galveston Bay/East Bay/Trinity Bay

stocks. Of the 10 serious injuries five were from the Galveston Bay/East Bay/Trinity Bay stock from hook and line gear, trap pot gear, and entanglements with unidentified fishing gear. Illegal gillnet gear entanglements and a vessel strike resulted in three serious injuries of the Laguna Madre stock. The remaining two serious injuries were from entanglements in unknown trap/pot gear from the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay stock and a vessel strike of the Nueces Bay/Corpus Christi Bay stock.

NMFS has updated the M/SI estimates for all of the stocks where take is proposed. The M/SI data presented in the most recent SARs update for these BSE stocks was from 2015–2019. During the development of this proposed rule NMFS reviewed M/SI data from Maze-Foley and Garrison (2024) and the Marine Mammal Stranding Database which included data from 2019–2023. These data updated the annual M/SI estimates for all BSE stocks of bottlenose dolphins as shown in table 7 and are different from what is presented in the most recent update to the bottlenose dolphin BSE SARs report (see Negligible Impact Determination). This data represents the best available data for estimating the annual M/SI values for these stocks, including correcting an error for the Galveston Bay, East Bay, Trinity Bay stock where two serious injuries were assigned to the wrong stock incorrectly in Maze-Foley and Garrison (2024).

Unusual Mortality Events (UME)—The marine mammal UME program was

established in 1991. A UME is defined under the MMPA as a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response. From 1992 through 2012, five UME events have occurred for Texas bottlenose dolphins and each has been closed. Three of the five UME causes were undetermined and the remaining two were caused by infectious diseases and biotoxins. More information related to UMEs is available on the NMFS website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events>.

Biological Important Areas (BIAs)—In 2015, NOAA's Cetacean Density and Distribution Mapping Working Group identified BIAs for 24 cetacean species, stocks, or populations in 7 regions within U.S. waters, including the GOA. For BSE bottlenose dolphin stocks in the GOA the BIAs are areas in which small and resident populations are

concentrated. BIAs are region-, species-, and time-specific.

Small and Resident Population: Areas and months within which small and resident populations occupying a limited geographic extent exist.

The delineation of BIAs does not have direct or immediate regulatory consequences. Rather, the BIA assessment is intended to provide the best available science to help inform regulatory and management decisions under existing authorities about some, though not all, important cetacean areas in order to minimize the impacts of anthropogenic activities on cetaceans and to achieve conservation and protection goals. In addition, the BIAs and associated information may be used to identify information gaps and prioritize future research and modeling efforts to better understand cetaceans, their habitat, and ecosystems. Table 3 provides a list of BIAs for bottlenose dolphins found within the TPWD's fisheries research areas.

TABLE 3—BIAS WITHIN THE TPWD FISHERIES RESEARCH AREA

BIA name	BIA	Time of year	Size kilometers (km ²)
Galveston Bay	Small and Resident	Year-round	1,222
San Luis Pass	Small and Resident	Year-round	143
Matagorda Bay and Espiritu Santo Bay	Small and Resident	Year-round	740
Aransas Pass	Small and Resident	Year-round	273

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Gear Interaction

As noted in the Detailed Description of the Proposed Activity section of this document, gillnet gear is the only gear used by TPWD that is expected to result in take of bottlenose dolphins. All other

gears are not expected to have effects on marine mammals.

The gillnets used by the TPWD are similar to those used in gillnet fisheries throughout the GOA and the Atlantic. Read *et al.* (2006) estimated marine mammal bycatch in U.S. fisheries from 1990 to –99 and derived an estimate of global marine mammal bycatch by expanding U.S. bycatch estimates using data on fleet composition from the United Nations Food and Agriculture Organization. Most U.S. fisheries bycatch for cetaceans (84 percent) occurred in gillnets. Interactions and entanglements with gillnets may result in take by M/SI or at the very least injury (Level A harassment) for bottlenose dolphins (Read *et al.*, 2006).

From 2019 through 2023, 243 commercial gillnet sets from the Atlantic coast of Florida throughout the GOA were observed by observers from the SEFSC. Effort has steadily declined in the strike gillnet fishery for king mackerel (*Scomberomorus cavalla*) and in the sink and drift gillnet fishery for Spanish mackerel (*Scomberomorus maculatus*) in the Atlantic and GOA. Incidental take of protected species,

such as sea turtles and marine mammals, remained a low occurrence. A total of three protected species interacted with gillnets over the 5-year period, including one loggerhead sea turtle, one smalltooth sawfish, and one bottlenose dolphin and all were released alive (NMFS 2024).

TPWD has a history of taking bottlenose dolphins incidental to their gillnet research in the coastal bays of Texas. From 1983 through 2024, TPWD has set 31,386 gillnets throughout their sampling areas in the coastal bays of Texas. Over the 41 years of the survey TPWD has recorded 44 encounters with bottlenose dolphins with gillnet gear. NMFS began making injury determinations in 2007 for marine mammal injury events including entanglements with TPWD gillnet gear as reported to NMFS (77 FR 3233, January 23, 2012). Of the 44 dolphin encounters recorded by TPWD, 6 have been mortalities, 6 have been determined to be serious injuries, 10 were determined to be non-serious injuries (Level A harassment), 3 have not yet been determined or could not be determined, and the remaining 19

encounters with dolphins have an unknown disposition.

Potential Effects on Marine Mammal Habitat

Effects on Prey—Gillnet sampling is designed to monitor finfish populations and some of these finfish species could be potential prey for bottlenose dolphins in the area. Habitat use by bottlenose dolphins is greatly dependent on prey availability. McDaniel (2022) grouped bottlenose dolphin prey species in Galveston Bay in order of importance based on their highest proportion consumed. White mullet (*Mugil curema*) was the highest proportion of prey species consumed at 25.3 percent of the overall diet of bottlenose dolphins. The second highest proportion of prey consumed by bottlenose dolphins in Galveston Bay was a group of species including Atlantic brief squid (*Lolliguncula brevis*), hardhead catfish (*Ariopsis felis*), and striped mullet (*Mugil cephalus*) at 21.0 percent. Recent analysis of fishery independent data collected by trawl and gillnets throughout the Texas coast indicate increasing abundance trends for striped mullet and Atlantic brief squid which indicate that gillnet sampling is not having a negative impact on these prey species for bottlenose dolphins (Williford and Anderson 2024). Gillnet sampling conducted by TPWD is limited in scope as compared with the overall available bay regions dolphins have to pursue prey species. The small number of prey species removed from the water during these gillnet sets are not expected to affect the availability of prey species for bottlenose dolphins in the coastal bays of Texas.

Physical Habitat—The use of gillnets by TPWD would be fished in habitat that is used by BSE stocks of bottlenose dolphins. Habitat used by these stocks of bottlenose dolphins ranges from shallow seagrass beds to dredged and natural channels and spoil island (Shane 1990; Scott *et al.*, 1996; Barros 1993; Allen *et al.*, 2000). Overall, the available data proposes that the range of diverse habitat used by bottlenose dolphins is influenced by foraging activity, seasonal shifts, and other behaviors such as socializing, traveling and resting.

TPWD does not set nets across the mouth of any inlets or channels during their sampling. Gillnets are primarily set in shallow waters with most of the gear either floating at the surface or suspended in the water column. The only part of the gillnet that makes contact with the sea floor is the lead line which is less than 1.27 cm in width and 182.9 m in length. This represents a very small area (2.4 m²) when compared to the available habitat of bottlenose dolphins within the Texas bay systems. Anchors similar to the size of boat anchors are deployed to keep the net in place. The deployment and retrieval of the nets are completed by hand to avoid any disturbance to sea grass in the area.

As described above, the potential for TPWD's gillnet research to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical habitat is considered to be insignificant for bottlenose dolphins. Effects on habitat will not be discussed further in this document.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization under the rule, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses. When discussing take, we consider three manners of take: mortality, serious injury, and non-serious injury (Level A harassment). Serious injury is defined as an injury that could lead to mortality while injury refers to an injury that could not lead to mortality. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). No takes by Level B harassment are expected from TPWD's activities.

TPWD has a history of taking marine mammals incidental to their fisheries research using gillnet gear. The take resulting from gear interaction can range

from mortality, serious injury, and Level A harassment (injury). TPWD has predicted the number of takes that would occur over the 5-year period of the rulemaking based on past encounters within the established stock boundaries of each Texas BSE bottlenose dolphin stock where take is expected. Each of these stocks has a respective survey block number (*e.g.*, B50) (also see figure 1) and TPWD further refined the survey blocks with 1 minute latitude by 1 minute longitude blocks where gillnets would be set (see figure 6a–f of TPWD's application). TPWD used a catch to effort calculation to estimate their expected annual take numbers.

In estimating take, TPWD used historical interactions data with bottlenose dolphins from 1983–2024 (table 4). Using this data, TPWD evaluated 5-year rolling averages for each survey block deriving the average number of encounters over each set of 5-years between 1983–2024. For example, in block 50 from 1983 through 2024, two rolling 5-year time periods had five encounters and one period had six. For this particular block, TPWD selected five encounters as the appropriate 5-year rolling total because it had the higher occurrence (twice between 1983–2024). TPWD chose the lower 5-year rolling total for this block since there was a high probability of that level of take occurring during the effective period of the requested LOA. For each of the blocks with interactions 5-year rolling totals were developed. TPWD then selected the highest recurring 5-year rolling totals for their estimated take levels (table 5). TPWD used these totals to inform their take request over the 5-year period of this proposed rule for each block with interactions of bottlenose dolphins (see Figure 1 for depiction of blocks relative to the different bays).

TABLE 4—TPWD'S HISTORICAL INTERACTIONS WITH BOTTLENOSE DOLPHINS FROM 1983 THROUGH 2024

Blocks with interactions	Number of interactions
B50	19
B51	8
B52	8
B54	9

TABLE 5—TPWD'S 5-YEAR HIGHEST OCCURRING ROLLING TOTALS PER BLOCK

	B50	B51	B52	B54
Number of Interactions	5	3	3	3
Years	1998–2002; 2012–2016	1989–1993	1996–2000	2019–2024

In order for TPWD to assign the appropriate levels of take as M/SI or Level A harassment from the 5-year averages, TPWD calculated the expected percentages of those dispositions on an annual basis. To calculate those percentages TPWD used catch and effort from each block in the steps below.

- TPWD first assigned the bottlenose dolphins with an unknown disposition (either mortality or released alive) based on the proportion of encounters with known dispositions in the same given survey block. Based on these proportions the number of unknowns in each survey block were assigned to either a released alive or mortality determination.

- TPWD then calculated the expected number of bottlenose dolphin mortalities and individuals released alive per set for each block including the newly assigned unknown dolphins from the preceding step.

- TPWD then used serious injury determinations (either serious or non-serious) provided by NMFS for each of their dolphin encounters with gillnets, to calculate the expected number of

non-serious injuries and serious injuries from the expected number of dolphins to be released alive per set.

- TPWD multiplied the expected number of dolphins to be released alive by the proportions of serious injury to total injury determinations and the proportion of non-serious injury determinations to total injury determinations to calculate the expected number of injuries and serious injuries per set.

- To determine the expected number of M/SI encounters per year, TPWD added the calculated number of mortalities and serious injuries per set from the steps above and then multiplied that number by the number of sets per year in the given survey block.

- A similar calculation was completed to determine the number of expected non-serious injuries per year.

A detailed example of the catch and effort calculation steps is available in Appendix 5 of TPWD's application for block 50, the Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay stock.

Once the expected annual take numbers by Level A harassment (injuries) and M/SI was calculated for each block, TPWD calculated the percentages of expected take by Level A harassment and take by M/SI on an annual basis. In the final step, TPWD used the annual percentages and multiplied them by the 5-year rolling totals as described above for each block (table 5) to assign the appropriate levels of take by Level A harassment and M/SI from a given 5-year rolling total.

TPWD has not had any encounters in West Bay (block 55), Galveston Bay/East Bay/Trinity Bay (block 56), and Sabine Lake (block 57). For these blocks TPWD requested one take by M/SI and one take by injury over the course of the 5-year period of this proposed rule. TPWD elected to request take for these blocks because there is a potential for interactions with bottlenose dolphins from stocks in these areas.

NMFS agrees with the calculations proposed by TPWD and is proposing to authorize the amount of take outlined in table 6.

TABLE 6—PROPOSED TOTAL TAKE BY STOCK ANNUAL AND OVER THE 5-YEAR REGULATIONS FOR TPWD GILLNET FISHERIES RESEARCH

Stock	Total take by injury (Level A harassment) over the 5-years	Total take by M/SI over the 5-years	Total take over the 5-years
Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay ..	2	3	5
Laguna Madre	1	2	3
Nueces Bay/Corpus Christi Bay	1	2	3
Matagorda Bay/Tres Palacios Bay/Lavaca Bay	1	2	3
West Bay	1	1	2
Galveston Bay/East Bay/Trinity Bay	1	1	2
Sabine Lake	1	1	2

Proposed Mitigation

In order to issue an LOA 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 impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (the last consideration not being applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or

stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (*e.g.*, likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (*i.e.*, probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective

implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

TPWD would implement a number of measures that could reduce the likelihood of an entanglement of a bottlenose dolphin during the use of gillnet gear during their research.

Gillnet Gear Measures

- Only new or fully repaired gillnets are used thereby eliminating any hole size greater than 6 in (15 cm) stretched mesh.

- TPWD must use gillnets with 2,101 hangings which connect the net to the float and lead line, with all hangings less than or equal to 4 in (10 cm) along the float and lead line to reduce entanglements.

- TPWD must set gillnets to ensure each gillnet is set as tight as possible from the surface to the seafloor and have marker buoys attached with ropes to the junctures of each mesh size and the end of the net as short as possible.

Gillnet Sampling Measures

- If any bottlenose dolphins are present deployment of gillnets would not occur until all of the dolphins have left the area.

- If bottlenose dolphins enter the area while a gillnet is being set, the lead line would be raised and lowered repeatedly to encourage the animals to leave the site. If bottlenose dolphins remain in the area, the gillnet would hauled back onto the vessel, and an alternative site is selected.

- Any live captured marine mammals must be released from the gillnet gear and returned to the water as soon as possible with no gear or as little gear remaining on the animal as possible. Animals must be released without removing them from the water.

- TPWD has eliminated sampling sites where bottlenose dolphins have been encountered more than once in a single grid or sites where multiple adjacent grids have had at least one dolphin encounter. These grids include: Aransas Bay grids 280, 290, 291, 300, 301, and 308 (figure 6c in TPWD application); Corpus Christi Bay grids 8, 20, and 132 (figure 6b in TPWD application); and Lower Laguna Madre grids 47, 318, and 319 (figure 6a in TPWD application).

- At sites where marine mammals have been encountered within the last 5-years, gillnet soak time is minimized by utilizing the “last out/first in” strategy. A net set in this manner will be deployed last for the day and retrieved first on the next day which may reduce soak times by as much as 6.6 hours. This procedure would be implemented in six sampling grids.

Based on our evaluation of the applicant’s proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

Section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include

the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that sufficient information about the action and its proposed effects on marine mammals and their habitat is collected.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Staff Training

- TPWD staff would be required to attend Safe Handling, Release, and Identification Workshops. TPWD would also ensure that at least one staff member on every gillnet sampling trip has had the training.

- Staff meetings are held prior to the start of each gillnet season to go over “Special Instructions for Handling Bottlenose Dolphins” in the TPWD Marine Resource Monitoring Operations Manual (appendix 6 of TPWD’s application) including scanning for the presence of dolphins prior to gillnet sets, scanning nets for entanglements,

and what to do if there is an entanglement.

Visual Monitoring by Staff

- When approaching a gillnet site, TPWD staff that are setting the net will slow the vessel and bring it off plane between 600 and 1,000 ft (183 and 305 m) from the shoreline. All staff members would scan the surface of the water for 15-minutes to watch and listen for surface activity prior to setting the nets.

- Should a bottlenose dolphin be observed during the 15-minute observation period at the site, the net would not be deployed. The net may only be deployed if the bottlenose dolphins are observed swimming on a path away from the site consistently for 15 minutes or are not re-sighted within 15 minutes.

Reporting

TPWD currently reports marine mammal entanglements to NMFS Southeast Regional Office (SERO). The proposed regulations would standardize a comprehensive reporting scheme and require TPWD to report all incidents of marine mammal interaction to the Office of Protected Resources (OPR) and NMFS SERO within 48 hours of occurrence. TPWD should also provide any supplemental information to OPR and SERO upon request. Information related to marine mammal interaction (e.g., animal captured or entangled in research gear) must include the following:

- Time, date, and location (latitude/longitude) of the incident;
- Description of the incident including, but not limited to, monitoring prior to and occurring at time of incident;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility);
- Description of the animal(s) involved (e.g., size, age class);
- Water depth and net location where entangled;
- Nature of the entanglement (i.e., part(s) of the animal(s) entangled, where in the net it was entangled);
- Fate of the animal(s);
- Detailed description of events, including how the animal(s) was disentangled and its behavior upon release, including signs of injury (if alive); and
- Photographs or video footage of the animal(s).

TPWD would also be required to submit an annual report to OPR no later than 90 days following the end of the fall sampling season. TPWD would provide a final report within 30 days following resolution of comments on the

draft report. These reports shall contain, at minimum, the following:

- Locations and time/date of all net sets;
- All instances of marine mammal observations and descriptions of any mitigation procedures implemented or not implemented and why;
- A written evaluation of the effectiveness of TPWD mitigation strategies in reducing the number of marine mammal interactions with survey gear, including gear modifications and best professional judgment and suggestions for changes to the mitigation strategies, if any; and
- A summary of all relevant marine mammal training and any coordination with OPR.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, and specific consideration of take by M/SI previously authorized for other NMFS research activities).

The MMPA requires that PBR be estimated in SARs and that it be used in applications related to the management of take incidental to

commercial fisheries (*i.e.*, the take reduction planning process described in section 118 of the MMPA and the determination of whether a stock is “strategic” as defined in section 3 of the MMPA). While nothing in the statute requires the application of PBR outside the management of commercial fisheries interactions with marine mammals, NMFS recognizes that as a quantitative metric, PBR may be useful as a consideration when evaluating the impacts of other human-caused activities on marine mammal stocks. Outside the commercial fishing context, and in consideration of all known human-caused mortality, PBR can help inform the potential effects of M/SI requested to be authorized under section 101(a)(5)(A) of the MMPA. As noted by NMFS and the U.S. Fish and Wildlife Service in our implementing regulations for the 1986 amendments to the MMPA (54 FR 40341, September 29, 1989), the Services consider many factors, when available, in making a negligible impact determination, including, but not limited to: (1) the status of the species or stock relative to optimum sustainable population (OSP) (if known); (2) whether the recruitment rate for the species or stock is increasing, decreasing, stable, or unknown; (3) the size and distribution of the population; and (4) existing impacts and environmental conditions. In this multi-factor analysis, PBR can be a useful indicator for when, and to what extent, the agency should take an especially close look at the circumstances associated with the potential mortality of the proposed action, along with any other factors that could influence annual rates of recruitment or survival.

PBR is defined in Section 3 of the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP and, although not controlling, can be one measure considered among other factors when evaluating the effects of M/SI on a marine mammal species or stock during the section 101(a)(5)(A) process. OSP is defined in section 3 of the MMPA as the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element. A primary goal of the MMPA is to ensure that each species or stock of marine mammal is maintained at or returned to its OSP.

PBR values are calculated by NMFS as the level of annual removal from a stock

that will allow that stock to equilibrate within OSP at least 95 percent of the time and is the product of factors relating to the minimum population estimate of the stock (N_{min}); the productivity rate of the stock at a small population size; and a recovery factor. Determination of appropriate values for these three elements incorporates significant precaution, such that application of the parameter to the management of marine mammal stocks may be reasonably certain to achieve the goals of the MMPA. For example, calculation of the minimum population estimate (N_{min}) incorporates the precision and variability associated with abundance information, while also providing (typically the 20th percentile of a log-normal distribution of the population estimate) reasonable assurance that the stock size is equal to or greater than the estimate (Barlow *et al.*, 1995). In general, the three factors are developed on a stock-specific basis in consideration of one another in order to produce conservative PBR values that appropriately account for both imprecision that may be estimated as well as potential bias stemming from lack of knowledge of a particular stock (Wade 1998).

When considering PBR during evaluation of effects of M/SI under MMPA section 101(a)(5)(A), we utilize a two-tiered analysis for each stock for which M/SI is proposed for authorization.

We first compare the total human-caused average annual M/SI estimate from all sources, including the M/SI proposed for authorization from the specific activity, to PBR. If the total M/SI estimate is less than or equal to PBR, then the specific activity is considered to have a negligible impact on that stock. The goal of the assessment is to determine whether total annual human-caused mortality, including from the specified activity, would exceed PBR. To aid in the evaluation and get a clearer picture of the amount of annual M/SI that remains without exceeding PBR, for each species or stock, we first calculate a “residual PBR,” which equals PBR minus the ongoing annual human-caused M/SI (*i.e.*, Residual PBR = PBR—(best available annual M/SI estimate + other M/SI authorized under section 101(a)(5)(A) of the MMPA (where relevant))). If the ongoing human-caused M/SI from other sources does not exceed PBR (*i.e.*, the residual PBR is a positive number), we consider how the proposed authorized incidental M/SI from the specified activities being evaluated compares to residual PBR using the framework in the following paragraph. If the ongoing anthropogenic

mortality from other sources already exceeds PBR (*i.e.*, the residual PBR is a negative number), we conduct additional analysis (described below as “Tier 2” analysis).

To reiterate, if the M/SI from the specified activity does not exceed PBR, the impacts of the authorized M/SI on the species or stock are generally considered to be negligible. As a simplifying analytical tool in the evaluation, we first consider whether the M/SI from the specified activities could cause incidental M/SI that is less than 10 percent of residual PBR, which we consider an “insignificance threshold.” If so, we consider M/SI from the specified activities to represent an insignificant incremental increase in ongoing anthropogenic M/SI for the marine mammal stock in question that alone will clearly not adversely affect annual rates of recruitment and survival and for which additional analysis or discussion of the anticipated M/SI is not required because the negligible impact standard clearly will not be exceeded on that basis alone.

When the M/SI from the specified activity is above the insignificance threshold, it does not indicate that the M/SI associated with the specified activities is necessarily approaching a level that would exceed negligible impact. Rather, it is used as a cue to look more closely at if and when the M/SI for the specified activity approaches residual PBR (*i.e.*, the closer the M/SI from the specified activity is to 100 percent residual PBR). In that case, it becomes increasingly necessary to carefully consider whether there are other factors that could affect reproduction or survival (*e.g.*, take by Level A and/or Level B harassment that has been predicted to impact reproduction or survival of individuals) or whether any other considerations should be taken into account (*e.g.*, as information that illustrates high uncertainty involved in the calculation of PBR for some stocks).

Recognizing that the impacts of harassment of any authorized incidental take (by Level A or Level B harassment from the specified activities) would not combine with the effects of the

authorized M/SI to adversely affect the stock through effects on recruitment or survival, if the proposed authorized M/SI for the specified activity is less than residual PBR, the M/SI, alone, would be considered to have a negligible impact on the species or stock. In cases where the Tier 2 analysis is necessary (*i.e.*, total M/SI including the amount estimated to occur incidental to the specific activity exceeds PBR), we again evaluate the estimated M/SI from the specified activity relative to the stock’s PBR. If the M/SI from the specified activity is less than or equal to 10 percent of PBR and other major sources of human-caused mortality have mitigation in place, then the individual specified activity is considered to have a negligible impact on that stock. If the estimate exceeds 10 percent of PBR, then, absent other mitigating factors, the specified activity could be considered likely to have a non-negligible impact on that stock and additional analysis is necessary. As shown below, no Tier 2 analysis is necessary here for any of the stocks where take is proposed.

Overall, we reiterate that PBR is a conservative metric and not sufficiently precise to serve as an absolute predictor of population effects upon which mortality caps would appropriately be based. For example, in some cases stock abundance (which is one of three key inputs into the PBR calculation) is underestimated, which could result in an underestimate of PBR. Alternatively, we sometimes may not have complete M/SI data to compare to PBR, which could result in an overestimate of residual PBR. The accuracy and certainty around the data that feed any PBR calculation, such as the abundance estimates, must be carefully considered to evaluate whether the calculated PBR accurately reflects the circumstances of the particular stock. PBR is helpful in informing the analysis of the effects of mortality on a species or stock because it is important from a biological perspective to be able to consider how the total mortality in a given year may affect the population. However, section 101(a)(5)(A)(i)(I) of the MMPA indicates that NMFS shall authorize the requested incidental take from a specified activity

if we find that the total of such taking (*i.e.*, from the specified activity) will have a negligible impact on such species or stock. In other words, the task under the statute is to evaluate the applicant’s anticipated take in relation to their take’s impact on the species or stock, not other entities’ impacts on the species or stock. Neither the MMPA nor NMFS’ implementing regulations call for consideration of other unrelated activities and their impacts on the species or stock.

We note that on June 17, 2020, NMFS finalized new Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E). The guidance explicitly notes the differences in the negligible impact determinations required under paragraph 101(a)(5)(E), as compared to paragraphs (a)(5)(A) and (D) of section 101, and specifies that the procedure in that document is limited to how the agency conducts negligible impact analyses for commercial fisheries under section 101(a)(5)(E). In this rule, NMFS has described its method for considering PBR to evaluate the effects of potential mortality in the negligible impact analysis. NMFS has reviewed the 2020 guidance and determined that our consideration of PBR in the evaluation of mortality as described above and in the rule remains appropriate for use in the negligible impact analysis for TPWD’s activities under section 101(a)(5)(A). Our evaluation of the M/SI for each of the stocks follows.

We first consider maximum potential incidental M/SI from the gillnet analysis for the affected stocks of bottlenose dolphin (table 5) in consideration of NMFS’ threshold for identifying insignificant M/SI take. By considering the maximum potential incidental M/SI in relation to PBR and ongoing sources of anthropogenic mortality, as described above, we begin our evaluation of whether the potential incremental addition of M/SI through gillnet interactions may affect the stocks’ annual rates of recruitment or survival. We also consider the interaction of those mortalities with incidental taking of that stock by Level A harassment pursuant to the specified activity.

TABLE 7—SUMMARY INFORMATION OF ESTUARINE BOTTLENOSE DOLPHIN STOCKS RELATED TO TPWD GILLNET FISHERY SURVEYS

Stock	Proposed M/SI take (annual)	PBR	Estimated annual M/SI	Residual PBR (r-PBR) ¹	Proposed take/r-PBR (%)
Laguna Madre	0.4	2	0.6	1.4	28.6
Nueces Bay/Corpus Christi Bay	0.4	14	0.6	13.4	3.0
Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay	0.6	5	0.6	4.4	13.6

TABLE 7—SUMMARY INFORMATION OF ESTUARINE BOTTLENOSE DOLPHIN STOCKS RELATED TO TPWD GILLNET FISHERY SURVEYS—Continued

Stock	Proposed M/SI take (annual)	PBR	Estimated annual M/SI	Residual PBR (r-PBR) ¹	Proposed take/r-PBR (%)
Matagorda Bay/Tres Palacios Bay/Lavaca Bay	0.4	1.3	0	1.3	30.8
Galveston Bay/East Bay/Trinity Bay	0.2	6.3	² 1.2	5.1	3.9
West Bay	0.2	0.3	0	0.3	66.6
Sabine Lake	0.2	0.9	0	0.9	22.2

¹ Residual PBR (r-PBR) = PBR-annual M/SI. No other M/SI is authorized for Texas BSE dolphin stocks.

² The estimated annual M/SI for the Galveston Bay, East Bay, Trinity Bay stock includes two additional serious injuries that were assigned to the wrong stock incorrectly in Maze-Foley and Garrison (2024). The annual M/SI estimate includes those additional serious injuries here.

As described above, NMFS' M/SI analytical approach may include two tiers, as applicable. Specifically, we first address stocks for which total known human-caused M/SI is below PBR (*i.e.*, the M/SI from the specified activity is below residual PBR)), considering those with proposed M/SI both below and above the insignificance threshold. Then, if applicable, we discuss stocks for which total mortality exceeds PBR in a Tier 2 analysis in which we compare the proposed M/SI of the specified activity alone against PBR and consider other factors as necessary.

In this case, total M/SI, including the take proposed here for authorization, is below PBR, indicating that the incremental addition of the take by M/SI anticipated to occur as a result of TPWD's survey activities would not alone result in greater than a negligible impact. The proposed take does not exceed the insignificance threshold (10 percent r-PBR) for the Nueces Bay/Corpus Christi Bay and Galveston Bay/East Bay/Trinity Bay stocks, and we do not further discuss the estimated M/SI take for those stocks. As noted above, for a species or stock with authorized M/SI less than 10 percent of residual PBR, we consider M/SI from the specified activities to represent a clearly insignificant incremental increase in ongoing anthropogenic M/SI that alone (*i.e.*, in the absence of any other take and barring any other unusual circumstances) will clearly not adversely affect annual rates of recruitment and survival.

For the remaining stocks, the estimated take exceeds the insignificance threshold (while remaining below total r-PBR). As described above, if the total M/SI estimate is less than or equal to PBR, which is the case here, then the specified activity is considered to have a negligible impact on that stock. Although the M/SI from takes authorized here for the specified activity is above the insignificance threshold, as described above, that does not indicate

that the M/SI associated with the specified activities is necessarily approaching a level that would exceed negligible impact. Rather, it is used as a cue to look more closely if and when the M/SI for the specified activity approaches residual PBR, as it becomes increasingly necessary (the closer the M/SI from the specified activity is to 100 percent residual PBR) to carefully consider whether there are other factors that could affect reproduction or survival. Here, the M/SI is not closely approaching residual PBR (ranging from 14–67 percent of r-PBR) and there are no other factors that would suggest that the authorized mortality (alone) would have more than a negligible impact on this stock. For three stocks (Matagorda Bay/Tres Palacios Bay/Lavaca Bay, West Bay, and Sabine Lake), there is no other known source of M/SI according to Maze-Foley and Garrison (2024) and the Marine Mammal Stranding Database. The Laguna Madre and Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay have all experienced some M/SI from other sources over the past 5 years. However, the driving factor behind the higher percentages of r-PBR is the small stock size which results in a low PBR, meaning that rare, isolated instances of M/SI can result in a low r-PBR. However, there is no sustained pattern of ongoing annual anthropogenic mortality for any of these stocks that would indicate cause for concern in relation to the take by M/SI that is estimated to occur as a result of TPWD's activities.

In addition, we must also still determine that any impacts on the species or stock from other types of take (*i.e.*, harassment) caused by the applicant do not combine with the impacts from mortality or serious injury addressed here to result in adverse effects on the species or stock through effects on annual rates of recruitment or survival. The rule also allows for a limited number of takes by non-auditory injury for each stock (no more than 1 to

2 takes per stock by Level A harassment over the 5-year duration). Given the limited number of potential instances, these non-auditory injuries are unlikely to be of a nature or level that would impact reproduction or survival.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers. Therefore, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (see 86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The number of takes NMFS proposes to authorize is below one-third of the abundance for all of the bottlenose dolphins BSE stocks where take is proposed (table 8). The total annual number of takes proposed for authorization is no higher than one percent of the population for any of the affected Texas BSE stocks.

TABLE 8—AMOUNT OF PROPOSED TAKING OF TEXAS BOTTLENOSE DOLPHIN STOCKS RELATIVE TO STOCK ABUNDANCE

Stock	Stock abundance	Proposed M/SI and Level A take (annual)	Percent of population proposed for take
Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay	¹ 669	1	0.2
Laguna Madre	¹ 222	0.6	0.3
Nueces Bay/Corpus Christi Bay	¹ 1,744	0.6	<0.1
Matagorda Bay/Tres Palacios Bay/Lavaca Bay	² 150	0.6	0.4
West Bay	³ 37	0.4	1.1
Galveston Bay/East Bay/Trinity Bay	³ 842	0.4	<0.1
Sabine Lake	³ 122	0.4	0.3

¹ Abundance values used for these stocks are the N_{min} calculated values from the Garrison (2025) report.

² The SEFSC conducted stock structure research (biopsy sampling surveys) from 2012–2014. During the biopsy sampling, photos were taken for photo-ID and 285 individual dolphins with distinct dorsal fins were identified within this stock boundaries (NMFS SEFSC, UNPUBLISHED DATA). Abundance value shown here is N_{best} .

³ Abundance values for these stocks come from the SARs.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance with the issuance of LOAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This proposed rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

Pursuant to section 605(b) of 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. TPWD is the sole entity that would be subject to the requirements in these proposed regulations, and TPWD is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151 and include the applications for regulations, subsequent LOAs, and reports. Submit comments regarding any aspect of this data collection, including suggestion for reducing the burden, to NMFS (see **ADDRESSES** section) and through the Regulatory Dashboard at: <https://www.reginfo.gov>.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning the TPWD's request and the proposed regulations (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare the final rule and make final determinations on whether to issue the

requested authorizations. This notice and referenced documents provide all environmental information relating to our proposed action for public review.

List of Subjects in 50 CFR 217

Fish, Endangered and threatened species, Marine mammals, Mitigation and monitoring requirements, Reporting and recordkeeping requirements, Wildlife.

Dated: March 3, 2026.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for 50 CFR part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. Add subpart J to read as follows

Subpart J—Taking Marine Mammals Incidental to Texas Parks and Wildlife Department Fisheries Research

Sec.

217.90 Specified activity and geographical region.

217.91 Effective dates.

217.92 Permissible methods of taking.

217.93 Prohibitions.

217.94 Mitigation requirements.

217.95 Requirements for monitoring and reporting.

217.96 Letters of Authorization.

217.97 Renewals and modifications of Letters of Authorization.

217.98–217.99 [Reserved]

Subpart J—Taking Marine Mammals Incidental to Texas Parks and Wildlife Department Fisheries Research

§ 217.90 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the Texas Parks and Wildlife Department (TPWD) and those persons acting under its authority during fishery research surveys for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to research survey program operations. Requirements imposed upon TPWD

must be implemented by those persons the authorize or fund to conduct activities on their behalf.

(b) The taking of marine mammals by TPWD may be authorized in a letter of authorization (LOA) only if the taking occurs within the following Texas bays: Matagorda, Tres Palacios, Lavaca Bay (Includes Lavaca and Tres Palacios with the eastern limit is roughly Caney Creek); Copano Bay, San Antonio, Aransas, Redfish, Espíritu Santo (bounded by the Matagorda Island barrier and the Espíritu Santo Bay flats); Corpus Christi and Nueces Bay

(Northern limit at Mesquite Bay; southern limit at the Upper Laguna Madre flats); upper Laguna Madre and lower Laguna Madre (From the John F. Kennedy Memorial Causeway (27.648 N, 97.276 W) south to the Rio Grande); West Bay (From the I-45 Causeway southwest to Drum Bay/San Luis Pass area); Galveston, East, Trinity Bay (Southwest boundary is the I-45 Galveston Causeway Bridge (29.288 N, 94.888 W) Includes Bolivar Roads); and Sabine Lake (From the Sabine Pass jetties east to the Louisiana border). See Figure 2.

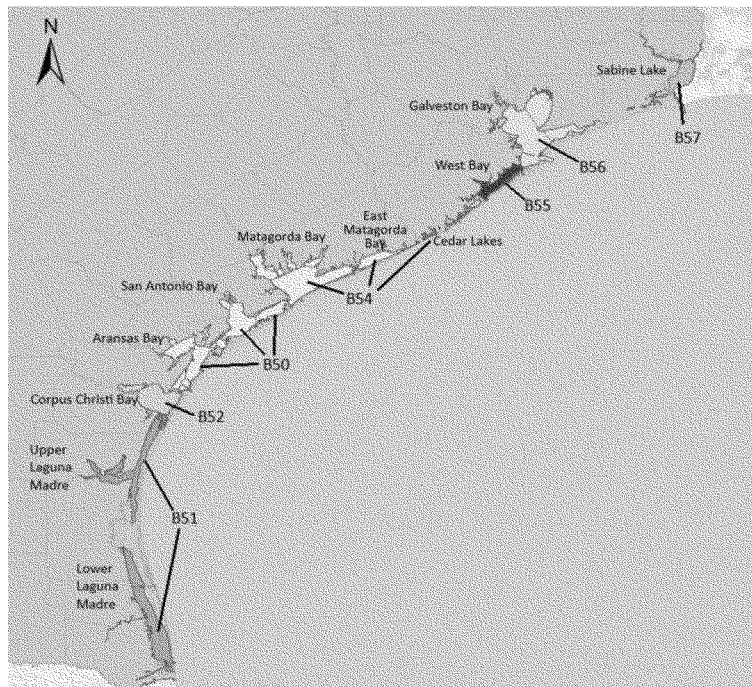


Figure 2. Texas Bays Sound and Estuary Stock Boundaries

§ 217.91 Effective Dates

Regulations under this subpart are effective from [EFFECTIVE DATE OF FINAL RULE], through [DATE 5 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

§ 217.92 Permissible methods of taking.

Under a LOA issued pursuant to §§ 216.106 of this chapter and 217.96, the holder of the LOA (hereinafter “TPWD”) may incidentally, but not intentionally, take marine mammals within the areas described in § 217.90 by Level A harassment, serious injury, or mortality associated with fisheries research provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the relevant LOA.

§ 217.93 Prohibitions

(a) Except for the taking permitted in § 217.90 and authorized by the LOA issued under § 216.106 of this chapter and this subpart, it is unlawful for any person to do any of the following in connection with the specified activities:

(1) Violate or fail to comply with the terms, conditions, and requirements of this subpart or the LOA issued under this subpart;

(2) Take any marine mammal not specified in § 217.90;

(3) Take any marine mammal specified in the LOA in any manner other than as specified in the LOA;

(4) Take any marine mammal specified in § 217.90 after NMFS determines such taking results in more than a negligible impact on the species or stock of such marine mammal; or

(5) Take any marine mammal specified in § 217.90 after NMFS

determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

(b) [Reserved]

§ 217.94 Mitigation requirements.

(a) When conducting the activities identified in § 217.90(a), the mitigation measures contained in this subpart and any LOA issued under §§ 216.106 and 217.96 of this chapter must be implemented by TPWD. These mitigation measures include:

(1) Only new or fully repaired gillnets may be used.

(2) TPWD must use gillnets with 2,101 hangings which connect the net to the float and lead line, with all hangings less than or equal to 4 in (10 cm) along the float and lead line.

(3) TPWD must set gillnets to ensure each gillnet is set as tight as possible from the surface to the seafloor and have

marker buoys attached with ropes to the junctures of each mesh size and the end of the net as short as possible.

(4) If any bottlenose dolphins are present deployment of gillnets shall not occur until all dolphins have left the area.

(5) If bottlenose dolphins enter the area while a gillnet is being set, the lead line shall be raised and lowered repeatedly to encourage the animals to leave the site. If bottlenose dolphins remain in the area, the gillnet must be hauled back onto the vessel, and an alternative site must be selected.

(6) Any live captured marine mammals must be released from the gillnet gear and returned to the water as soon as possible with no gear or as little gear remaining on the animal as possible. Animals must be released without removing them from the water.

(7) TPWD must not set gillnets in grids where dolphins have been taken on more than one occasion or where multiple adjacent grids have had at least one dolphin encounter.

(8) TPWD must implement a “last out/first in” set strategy at sites where bottlenose dolphins have been encountered within the last 5-years. A net set in this manner will be deployed last for the day and retrieved first on the next day.

(b) [Reserved]

§ 217.95 Requirements for monitoring and reporting.

(a) *Staff training.* TPWD staff must attend a safe handling, release, and identification workshop. TPWD shall ensure that at least one staff member on every gillnet sampling trip has had the training. TPWD shall hold staff meetings prior to the start of each gillnet season which will include: special instructions for handling bottlenose dolphins, scanning for the presence of dolphins prior to gillnet sets, scanning nets for entanglements, and what to do if there is an entanglement.

(b) *Visual monitoring.* TPWD staff must slow the vessel between 600 to 1000 feet (ft) (183 to 305 meters (m)) from the shoreline when approaching a sampling site. All staff members would scan the surface of the water for 15-minutes to watch and listen for surface activity prior to setting the nets. If a bottlenose dolphin is observed during the 15-minute observation period at the site, the net shall not be deployed. If bottlenose dolphins are observed, the net may only be deployed if the bottlenose dolphins are observed on a path away from the site consistently for 15-minutes or are not re-sighted within 15-minutes.

(c) *Reporting of injured or dead marine mammals.* (1) In the event that the activity defined in § 217.90(a) causes the take of a marine mammal in a prohibited manner, TPWD shall not set any more nets until such time as an appropriate decision regarding the activity continuation can be made by NMFS Office of Protected Resources (OPR). OPR will review the circumstances of the prohibited take and determine what measures are necessary to minimize the likelihood of further prohibited take. The report must include the information included in paragraph (c)(2) of this section, details of research survey, monitoring conducted prior to interaction, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made, and rationale for decisions made in vessel and gear handling.

(2) TPWD shall report all injured or dead marine mammals observed during fishery research surveys that are not attributed to the specified activity to the Southeast Regional Stranding Coordinator within 24 hours. The following information shall be provided:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident including, but not limited to, monitoring prior to and occurring at time of incident;

(iii) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of the animal(s) involved (e.g., size, age class);

(v) Water depth and net location where entangled;

(vi) Nature of the entanglement (i.e., part(s) of the animal(s) entangled, where in the net it was entangled);

(vii) Fate of the animal(s);

(viii) Detailed description of events, including how the animal(s) was disentangled and behavior upon release, including signs of injury (if alive); and

(ix) Photographs or video footage of the animal(s).

(d) *Annual reporting.* (1) TPWD shall submit an annual summary report to OPR not later than 90 days following the end of the fall sampling season. TPWD shall provide a final report within 30 days following resolution of comments on the draft report.

(2) These reports shall contain, at minimum, the following:

(i) Locations and time/date of all net sets;

(ii) All instances of marine mammal observations and descriptions of any mitigation procedures implemented or not implemented and why;

(iii) All incidents of marine mammal interactions, including all information required in paragraph (b) of this section;

(iv) A written evaluation of the effectiveness of TPWD mitigation strategies in reducing the number of marine mammal interactions with survey gear, including gear modifications and best professional judgment and suggestions for changes to the mitigation strategies, if any;

(v) A summary of all relevant marine mammal training and any coordination with OPR.

§ 217.96 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, TPWD must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, TPWD must apply for and obtain a modification of the LOA as described in § 217.97.

(d) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (i.e., mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(e) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(f) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.97 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.96 for the activity identified in § 217.90(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA

under these regulations were implemented;

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), OPR may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.96 for the activity identified in § 217.90(a) may be modified by Office of Protected Resources (OPR) under the following circumstances:

(1) Adaptive management. OPR may modify or augment the existing mitigation, monitoring, or reporting measures (after consulting with SEFSC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, OPR will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(ii) [Reserved]

(2) Emergencies. If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 219.87, an LOA may be modified without prior notice or opportunity for public comment. A notice would be published in the **Federal Register** within 30 days of the action.

§ 217.98–217.99 [Reserved]

[FR Doc. 2026–05263 Filed 3–17–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260224–0055]

RIN 0648–BN84

Reef Fish Fishery of the Gulf of America; Shallow-Water Grouper Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a framework action under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP), as prepared by the Gulf Council (Council). If implemented, this proposed rule would modify the Gulf of America (Gulf) Other Shallow-Water Grouper (SWG) complex catch limits, and would set a recreational fixed-closed season for Gulf Other SWG. The purpose of this proposed rule is to reduce harvest of Gulf scamp and yellowmouth grouper while the Council develops Amendment 58A to the FMP, which considers additional Other SWG management measures.

DATES: Written comments must be received on or before April 17, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-1065>. You may submit comments on this document, identified by [NOAA–NMFS–2025–1065], by either 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–2025–1065], in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Dan Luers, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov>

without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the framework action, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/modifications-other-shallow-water-grouper-complex-management-measures>.

FOR FURTHER INFORMATION CONTACT: Dan Luers, telephone: 727–824–5305, or email: daniel.luers@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes the Other SWG complex (composed of scamp, yellowmouth grouper, black grouper, and yellowfin grouper), is managed under the FMP. The FMP was prepared by the Council and NMFS, approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

All catch limits in this proposed rule are in pounds (lb) gutted weight.

Background

The Magnuson-Stevens Act requires NMFS and the regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and to protect marine ecosystems.

Scamp, yellowmouth grouper, black grouper, and yellowfin grouper were assigned to the Other SWG complex in the Generic Annual Catch Limits (ACL) and Accountability Measures (AM) Amendment (Generic ACL/AM Amendment) (76 FR 82044, December 29, 2011). These species were grouped into this complex for management proposes based on their similar fishery characteristics, such as habitat and harvest methods. The Other SWG stock complex ACL is set equal to the complex acceptable biological catch (ABC) which is currently 710,000 lb

(322,051 kilograms (kg)) (50 CFR 622.41(c)(3)).

Commercial harvest of Other SWG species has been managed under the Grouper-Tilefish Individual Fishing Quota (IFQ) program since 2010 (74 FR 44732, August 31, 2009). The Generic ACL/AM Amendment apportioned the commercial sector a specified amount of the stock complex ACL based on historical harvest to allow the commercial sector to continue to operate under the IFQ program. The current commercial ACL is 547,000 lb (248,115 kg) and the commercial annual catch target (ACT, or quota) is 525,000 lb (238,136 kg), which is 4 percent below the commercial ACL. The buffer between the commercial quota and the commercial ACL was put in place to account for scientific uncertainty with the level of discards and allow for the IFQ flexibility measures under which some species in the deep-water grouper complex can be landed under the Other SWG quota. The Other SWG commercial quota has never been exceeded under the IFQ program.

Recreational fishing for all Other SWG species occurs throughout the Gulf except for black grouper, which more commonly occurs in the southeastern Gulf off Florida. There is no defined ACL for the recreational sector for the Other SWG complex. In defining the commercial apportionment, the Generic ACL/AM Amendment recognized that the difference between the stock complex ACL and the commercial ACL would allow for recreational harvest consistent with the historical levels. However, in recent years, recreational landings comprise an increasing proportion of overall landings for this complex. The recreational AM is linked to the stock complex ACL, and states that in the year following an overage of the stock complex ACL, recreational fishing will close when the stock complex ACL is projected to be reached. Because total landings have never reached the Other SWG stock complex ACL, the recreational AM has never been triggered. However, because the AM is based on reaching the stock complex ACL and the IFQ system allows commercial landings to occur year-round, this recreational AM may not effectively constrain harvest to the stock complex ACL if catch limits are reduced, as would occur under this proposed rule.

Until recently, no peer-reviewed stock assessment was available to inform stock status determinations for any Other SWG species. In 2022, the Southeast Data, Assessment, and Review 68 (SEDAR 68) assessed scamp and yellowmouth grouper together and

indicated that harvest must be reduced. The Council's Scientific and Statistical Committee (SSC) accepted SEDAR 68 as consistent with the best scientific information available and recommended updated status determination criteria and catch levels for these two stocks. Black grouper and yellowfin grouper stocks could not be assessed due to a lack of the data necessary to accurately assess population metrics of these species in the Gulf.

In response to the SSC recommendations for scamp and yellowmouth grouper, the Council initiated work on Amendment 58A to the FMP (Amendment 58A), which considers dissolving the Other SWG complex and creating two new complexes, one for scamp and yellowmouth grouper and another for black grouper and yellowfin grouper, and setting catch limits for these new complexes. Amendment 58A also considers changes to the commercial IFQ program to reflect the two new complexes as well as other management measures. In recognition of the complexity of Amendment 58A and the additional time required for its development and implementation, the Council developed the current framework action to reduce harvest of scamp and yellowmouth grouper, consistent with the SSC recommendations, until Amendment 58A can be completed. The Council had been scheduled to approve Amendment 58A at its January 2026 meeting but decided to delay action pending the results of the Marine Recreational Information Program-Fishing Effort Survey pilot study, which may better inform the catch level recommendations in the amendment. Information on this study can be found at <https://www.fisheries.noaa.gov/recreational-fishing-data/fishing-effort-survey-research-and-improvements>.

This proposed rule and the framework action would reduce the current Gulf Other SWG complex ABC and stock complex ACL by 54.7 percent, which is based on the results of SEDAR 68 and the SSC original catch limit recommendations. The SSC reviewed updated SEDAR 68 projections information in May 2025 and provided new, slightly lower catch limit recommendations that are addressed in Amendment 58A but could not be incorporated into the current action because of the need to finalize the framework action at the June 2025 Council meeting. The proposed rule and the framework action would also implement a recreational fixed-closed season that is based on the predicted number of days needed to harvest the

portion of the stock complex ACL available to the recreational sector (the difference between the stock complex ACL and commercial ACL). Currently, the Other SWG recreational season is open year-round, except for a SWG closure that is in place from February 1 through March 31 inshore of the 20-fathom rhumb line (50 CFR 622.24(d)). The measures in this proposed rule and the framework action are expected to reduce recreational harvest and reduce the likelihood of overfishing of scamp and yellowmouth grouper while additional management measures in response to SEDAR 68 are developed in Amendment 58A.

Management Measures Contained in This Proposed Rule

If implemented, this proposed rule would revise the stock complex and commercial ACL and quota (ACT) and set a recreational fixed closed season for the Other SWG complex.

ACLs and ACT

Based on the results of SEDAR 68 and as described in the framework action, this proposed rule would reduce the stock complex ACL from 710,000 lb (322,051 kg) to 322,000 lb (146,057 kg), the commercial ACL from 547,000 lb (248,115 kg) to 255,000 lb (115,666 kg), and the commercial quota from 525,000 lb (238,136 kg) to 245,000 lb (111,130 kg). The commercial ACL and quota are rounded down to the nearest thousand lb (454 kg) from those presented in the framework action. This is done under the IFQ program to ensure that when allocation is distributed, the distributed allocation does not exceed the commercial quota. Without rounding, the distributed allocation could exceed the commercial quota based on how IFQ share percentages are calculated and the allocation is distributed.

NMFS expects the proposed catch limit reductions to result in reduced harvest and mortality of scamp and yellowmouth grouper, which would not occur under the *status quo* catch limits. Although commercial landings have never exceeded the proposed commercial quota and are expected to remain below the proposed quota in future years, these catch limits, when combined with the proposed recreational fixed-closed season, are expected to reduce mortality of scamp and yellowmouth grouper while the Council and NMFS work to implement Amendment 58A.

Recreational Fixed Closed Season

For the Other SWG complex, there is no recreational seasonal closure currently in place. This proposed rule

would implement a recreational fixed closed season of January 1 through June 30, each year, resulting in an open season from July 1 through December 31, each year. During the proposed recreational closed season, the recreational harvest of Other SWG would be prohibited and the bag and possession limits for Other SWG in or from Gulf Federal waters would be zero.

The Council recommended implementation of a recreational fixed-closed season to reduce the recreational harvest of Other SWG consistent with the proposed reduction in the stock complex ACL. The framework action describes the method used to determine the proposed closed season, which is based on a July 1 opening and the predicted number of fishing days the recreational sector would need to harvest the amount of the stock complex ACL not allocated to the commercial IFQ program. The Council selected the July open date to provide some access during the summer but prevent harvest in June when historical landings have been the greatest and prevent overlap with the start of the Federal for-hire red snapper season when angler effort is very high. The proposed fixed-closed season is expected to result in substantially reduced effort and harvest by the recreational sector, which would help reduce the likelihood of overfishing scamp and yellowmouth grouper.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the framework action, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce 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 factual basis for this certification follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**). All monetary estimates in the following analysis are in 2024 dollars.

A description of this proposed rule, why it is being considered, and the

objectives of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This proposed rule would reduce the Other SWG stock complex ACL from 710,000 lb (322,051 kg) to 322,000 lb (146,057 kg) and reduce the commercial ACL from 547,000 lb (248,115 kg) to 255,000 lb (115,666 kg). The commercial ACT (quota) would be set at 245,000 lb (111,130 kg). This proposed rule would also establish a recreational fixed closed season for the Other SWG complex, with the recreational season set to open July 1 and to close on December 31. The proposed reduction in the Other SWG stock complex ACL would apply to SWG IFQ shareholders, as well as commercial fishing businesses, charter vessel and headboat (for-hire) fishing businesses, and recreational anglers that fish for Other SWG species in Federal waters of the Gulf. The proposed establishment of a recreational fixed closed season would apply only to recreational anglers and for-hire fishing businesses that fish for these species in Federal waters of the Gulf.

The RFA requires NMFS to describe the impact of the proposed rule on small entities (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(3)–(6)). Recreational anglers are not businesses, organizations, or governmental jurisdictions, so they are outside the scope of this analysis.

Although this proposed rule would apply to for-hire vessels, it would not be expected to have any direct effects on these entities. From 2019 through 2023, there were an average of 2,447 target trips by charter mode for Other SWG in the Gulf, which accounts for just over 5 percent of all recreational target trips for Other SWG in the Gulf. In contrast, an average of 47,841 catch trips by charter mode for Other SWG in the Gulf were made from 2019–2023. This indicates that Other SWG fish are incidentally harvested species and for-hire vessels do not sell targeted trips for these fish. Therefore, NMFS does not expect the proposed changes to the Other SWG complex management measures to directly alter the services sold by these

vessels. Any change in demand for these fishing services, and associated economic effects, as a result of this proposed rule would be a consequence of a change in anglers' behavior, secondary to any direct effect on anglers and, therefore, an indirect effect of the proposed rule. This indirect effect would fall outside the scope of the RFA. In summary, only the impacts on commercial fishing businesses will be discussed in this proposed rule.

As of July 8, 2021, there were 825 limited access valid or renewable Gulf reef fish permits. In order to commercially harvest species in the Other SWG complex, a vessel permit must be linked to an IFQ account and the account must possess sufficient allocation for the complex. IFQ accounts can be opened and valid permits can be linked to IFQ accounts at any time during the year. Eligible vessels can receive Other SWG complex allocation from other IFQ participants. On average from 2019 through 2023, there were 693 IFQ accounts that held Other SWG allocation and 490 that held Other SWG shares. During the same period, there were 301 federally permitted commercial vessels, on average each year, with reported landings of Other SWG species in the Gulf. Their average annual vessel-level gross revenue from all species for 2019 through 2023 was approximately \$225,556 and Other SWG landings accounted for approximately 2 percent of this revenue. The maximum annual revenue from all species reported by a single one of the commercial vessels that landed Gulf Other SWG species from 2019 through 2023 was approximately \$4.55 million in 2023. Economic profits for these commercial vessels are estimated to be 34.8 percent of their annual gross revenue, on average, or \$78,493 per vessel during this period. Although many fishing businesses own only one permitted vessel, some hold or own multiple permits and vessels. Because complete ownership data for vessels that harvest Other SWG are currently unavailable, for the purposes of this analysis, NMFS assumes each of these 301 vessels is independently owned by a single business. This assumption is expected to result in an overestimate of the actual number of businesses directly regulated by this proposed rule. Additionally, 362 IFQ shareholder accounts, on average from 2019 through 2023, possessed Other SWG shares but did not report any landings of Other SWG species. These shareholders either transferred Other SWG allocation only or were inactive in the fishery. NMFS assumes that each of these accounts is

independently owned by a single business as well. Revenue and cost data are not directly collected for IFQ shareholders, so estimates of their economic profits are not available; however, previous data for IFQ shareholders that hold gag shares suggest economic profits were approximately \$73,000 per commercial fishing business in 2021.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (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 receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard. No other small entities that would be directly affected by this proposed rule have been identified.

As stated earlier, this proposed rule would reduce the Other SWG stock complex ACL from 710,000 lb (322,051 kg) to 322,000 lb (146,057 kg) and reduce the commercial ACL from 547,000 lb (248,115 kg) to 255,000 lb (115,666 kg). The commercial ACT (quota) would be set at 245,000 lb (111,130 kg). Although the commercial ACL and ACT would be reduced by 53 percent relative to the status quo, based on 5-year average landings from 2018 through 2023, excluding 2020, commercial landings are expected to remain below the proposed commercial ACT in future years. Therefore, NMFS does not expect direct economic effects associated with a reduction in harvest.

There are potential price effects on the markets for Other SWG IFQ shares and allocation as a result of this proposed rule because the fixed supply of Other SWG IFQ allocation would become scarcer. However, these price effects cannot be quantified with available data. Allocation transfer prices may increase, which would increase the costs to some commercial fishing businesses that harvest Other SWG species or deep-water grouper species (speckled hind and warsaw grouper) that can be landed using Other SWG

allocation under the flexibility measures established in Amendment 29 to the FMP (74 FR 44732, August 31, 2009). Assuming the percentage change in quantity of Other SWG allocation demanded is greater than the percentage change in price for Other SWG allocation, IFQ shareholders would experience an overall decrease in allocation transfer proceeds from an increase in allocation transfer prices and vice versa. With respect to IFQ share value, if investors believe that the discounted future revenue stream associated with shares is lower under the new commercial ACL than under the status quo commercial ACL, then share prices would be expected to decrease, otherwise they would remain the same or increase. Historically, Other SWG quota has been underutilized and NMFS expects commercial harvest will remain below the proposed commercial ACT. Therefore, demand for allocation would be unaffected and there would likely continue to be a surplus of allocation. In conclusion, any Other SWG allocation transfer price increases would likely be small due to competition among sellers.

Based on the above analysis, this proposed rule would not be expected to have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Gulf, Recreational, Reef fish.

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

Dated: February 24, 2026.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF AMERICA, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.34, add paragraph (h) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(h) *Seasonal closure of the recreational sector for Other shallow-*

water grouper (Other SWG) combined (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper). The recreational sector for Other SWG in or from the Gulf EEZ is closed from January 1 through June 30, each year. During the closure, the bag and possession limits for Other SWG in or from the Gulf EEZ are zero.

■ 3. In § 622.39, revise paragraph (a)(1)(iii)(A) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(A) *Other SWG combined*—245,000 lb (111,130 kg).

* * * * *

■ 4. In § 622.41, revise paragraph (c) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(c) *Other shallow-water grouper (Other SWG) combined (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper)*—(1) *Commercial sector.* The IFQ program for groupers and tilefishes in the Gulf of America serves as the accountability measure for commercial Other SWG. The commercial ACT for Other SWG is equal to the applicable quota specified in § 622.39(a)(1)(iii)(A). The commercial ACL for Other SWG is 255,000 lb (115,666 kg), gutted weight.

(2) *Recreational sector.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL specified in paragraph (c)(3) of this section, then during the following fishing year, if the sum of the commercial and recreational landings reaches or is projected to reach the applicable ACL specified in paragraph (c)(3) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of that fishing year.

(3) The stock complex ACL for Other SWG is 322,000 lb (146,057 kg), gutted weight.

* * * * *

[FR Doc. 2026–05267 Filed 3–17–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 260303–0060]****RIN 0648–BO26****Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Amendment 25 (Revised)**

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to incorporate revised Atlantic cod stock units into the Northeast Multispecies Fishery Management Plan (FMP), and set status determination criteria (SDCs), specifications, and commercial and recreational management measures, for the four new cod stocks, as recommended by the New England Fishery Management Council (Council). This action also proposes other recreational groundfish measures necessary for the fishery. The purpose of this proposed action is to prevent overfishing, ensure rebuilding, and help achieve optimum yield in the groundfish fisheries consistent with the status of the stocks and requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by April 17, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-1230>. You may submit comments, identified by NOAA–NMFS–2025–1230, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA–NMFS–2025–1230 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be

considered. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. You may submit anonymous comments by entering “N/A” in the required fields if you wish to remain anonymous.

Copies of Amendment 25, including the draft Environmental Assessment (EA), the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the Council in support of this action, are available from Dr. Cate O’Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: <https://www.nefmc.org/management-plans/northeast-multispecies> or <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Heather Nelson, Fishery Management Specialist, phone: 978–281–9334; email: Heather.Nelson@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northeast Multispecies FMP specifies the management measures for 13 groundfish species, both target and non-target. The Northeast Multispecies FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 648, consistent with the requirements of the Magnuson-Stevens Act. The groundfish fishery includes recreational and commercial components, and the members of the commercial fishery choose whether to fish as part of the sector program or the common pool. Annually, the commercial groundfish fishery has a value of approximately \$40 million (ex-vessel revenue from the most recent complete fishing year). Recreational fisheries, including the recreational groundfish fishery, contribute substantial value to the regional and national economies.

Background

Under the provisions of the Magnuson-Stevens Act, on behalf of the Secretary of Commerce, NMFS approves, disapproves, or partially approves measures that the Council proposes, based on consistency with the Act and other applicable law. Relying on the research and management track assessments; other scientific, commercial, and fishery data; economic, social, and ecological information and expertise; and public comments from

numerous public meetings, the Council developed Amendment 25 to specify Status Determination Criteria (SDC), overfishing limits (OFL), acceptable biological catches (ABC), and annual catch limits (ACL), and set other management measures for all four cod stocks that are necessary to achieve optimum yield, prevent overfishing, and ensure accountability. NMFS has published a Notice of Availability (NOA) for Amendment 25 (91 FR 1257; January 12, 2026) that seeks public comment on the amendment through March 16, 2026. NMFS will consider comments received during the comment period for the Amendment 25 NOA in its decision to approve, partially approve, or disapprove Amendment 25, and will notify the Council by letter, pursuant to section 304(a)(3) of the Magnuson-Stevens Act.

NMFS also reviews proposed regulations for consistency with the fishery management plan, plan amendments, the Magnuson-Stevens Act and other applicable law. NMFS is seeking comments on these proposed regulations and, if Amendment 25 is approved in whole or in part, intends to promulgate the final regulations after careful consideration of any submitted comments. This proposed rule would incorporate revised Atlantic cod stock units and associated requirements into the Northeast Multispecies FMP, as described in Amendment 25. This proposed rule also includes measures not specifically in Amendment 25, but which would be necessary for the management of the new stocks of cod, if approved, pursuant to section 305(d) of the Magnuson-Stevens Act. The Council reviewed the proposed regulations for Amendment 25 and deemed them consistent with, and necessary to implement, Amendment 25 in a December 5, 2025, letter from Council Chairman Daniel Salerno to Greater Atlantic Regional Administrator Michael Pentony, pursuant to section 303(c) of the Magnuson-Stevens Act. NMFS may consider comments submitted in response to this proposed rule in making a final decision to approve, partially approve, or disapprove Amendment 25 to the extent those comments are received during the NOA comment period. Consistent with Magnuson-Stevens Act requirements, NMFS will consult with the Council before making any revisions to the proposed regulations, if necessary, and will publish an explanation of any differences between the proposed and final regulations.

Under Magnuson-Stevens Act section 304(b)(1)(A), NMFS is required to publish proposed regulations consistent

with the Council's recommendations, with such legal changes as may be necessary for clarity and an explanation of those changes for public comment). Therefore, through Amendment 25, and based on Council recommendations on transitioning the FMP from two stocks of cod to four stocks, NMFS proposes to:

- Incorporate the revised Atlantic cod stock unit definitions for Georges Bank (GB) cod, Eastern Gulf of Maine (EGOM) cod, Western GOM (WGOM) cod, and Southern New England (SNE) Atlantic cod into the Northeast Multispecies FMP;

- Set status determination criteria (SDC) for the Atlantic cod stocks;

- Set specifications including catch limits for four cod stocks: GB cod for fishing year 2026; and EGOM cod, WGOM cod, SNE cod for fishing year 2026–2027;

- Define the apportionment method for setting the WGOM cod commercial sub-annual catch level (ACL);

- Establish the management uncertainty buffers for the Atlantic cod stocks;

- Set recreational sub-ACLs for WGOM cod and SNE cod;

- Establish common pool trimester total allowable catch (TAC) distributions, TAC closure areas, and baseline common pool trip limits for the Atlantic cod stocks;

- Set recreational measures for SNE cod; and

- Establish a regulatory process for the Regional Administrator to set recreational measures for GB and EGOM cod for fishing year 2026.

In addition to the measures recommended by the Council in Amendment 25, this action also proposes measures that are not part of Amendment 25, but that may be considered and implemented under section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. Through this rulemaking, NMFS proposes to set recreational management measures for WGOM, EGOM, and GB cod. Proposing these measures concurrently with Amendment 25 is intended to streamline the implementation because the measures are dependent on the proposed new stocks of cod being incorporated into the FMP.

The regulatory changes proposed in this rulemaking build upon the regulatory changes proposed in Framework Adjustment 69 to the FMP (90 FR 56836; December 8, 2025). The proposed regulatory changes below presume the implementation of the Framework 69 regulatory changes, rather than the current regulatory text.

Atlantic Cod Stock Unit Definitions

Since the initial development of the Northeast Multispecies FMP in 1985,

the fishery has been managed based on two Atlantic cod biological stock units: Gulf of Maine (GOM) cod and GB cod. Amendment 25 would revise the FMP to reflect four cod biological stock units as defined in the 2023 Research Track Assessment of Atlantic Cod: EGOM cod; WGOM cod; GB cod; and SNE cod. A peer review of the 2023 research track assessment accepted the outcomes of that assessment and its determination on the four-stock unit structure for cod, and this represents the best scientific information available. A copy of the Summary Report of the Atlantic Cod Research Track Stock Assessment Peer Review is available at: <https://www.fisheries.noaa.gov/s3/2023-08/PanelSummaryReportoftheAtlanticCodRTPeerReviewAugust172023-mlt-508-8-23-23ajd-508gw.pdf>.

In order to implement the management areas for the four new cod stocks, which are used for possession limits, minimum sizes, sector quotas, and other programs that are part of the Northeast Multispecies FMP, this action would define the geographical areas for the four cod stocks and management units (see figure 1). These areas would be codified in the Code of Federal Regulations (CFR) (see the proposed regulatory text below).

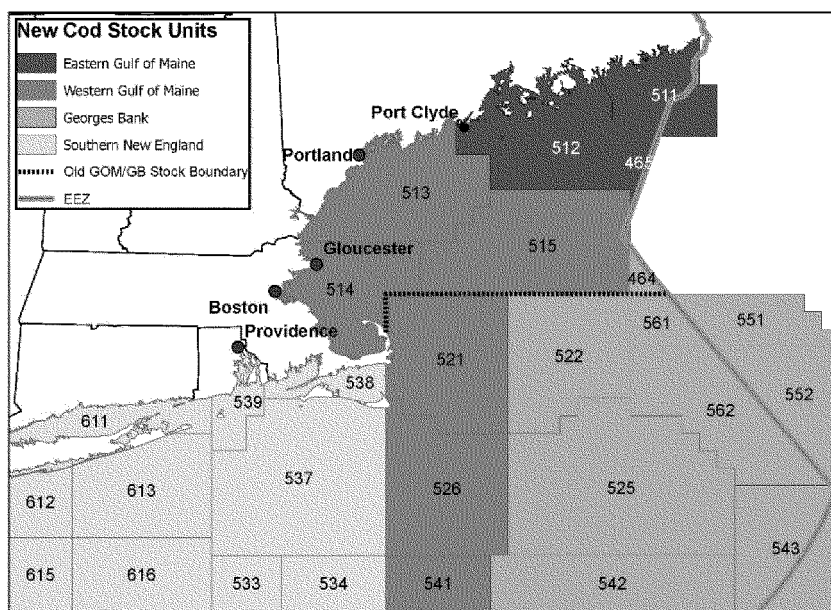


Figure 1—Map of New Atlantic Cod Stock Units**Status Determination Criteria**

Section 303(a)(10) of the Magnuson-Stevens Act requires FMPs to specify objective and measurable criteria, *i.e.*, SDCs, for identifying when a stock is

overfished or is experiencing overfishing. Amendment 25 proposes to establish SDCs for EGOM, WGOM, GB, and SNE cod, and provide numerical estimates of these criteria, in order to incorporate the results of the 2024 stock assessments and based on the peer review recommendations from the 2024

stock assessments. Table 1 provides the proposed SDCs for EGOM, WGOM, GB and SNE cod, and table 2 provides the resulting numerical estimates of the SDCs. These numerical estimates would be updated in subsequent stock assessments, as needed.

TABLE 1—PROPOSED STATUS DETERMINATION CRITERIA

Stock	Biomass target (SSB _{MSY} or proxy)	Minimum biomass threshold	Maximum fishing mortality threshold (F _{MSY} or proxy)
EGOM cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy.
WGOM cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy.
GB cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy.
SNE cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy.

SSB = spawning stock biomass; MSY = maximum sustainable yield; B = biomass; F = fishing mortality.

TABLE 2—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

Stock	Model/approach	B _{MSY} or proxy (mt)	F _{MSY} or proxy	MSY (mt)
EGOM cod	WHAM	2,184	0.27	476
WGOM cod	WHAM	62,677	0.19	11,271
GB cod	WHAM	8,290	0.23	1,930
SNE cod	WHAM	11,258	0.12	1,317

WHAM = Woods Hole Assessment Model; mt = metric tons.

Specifications for Fishing Years 2026–2027**Overfishing Limits and Acceptable Biological Catches**

A stock's OFL is calculated to set the maximum amount of fish that can be caught in a year without constituting overfishing. The ABC is typically set lower than the OFL to account for scientific uncertainty, although it may be set up to the OFL. For GB cod, because the stock unit extends into the Canadian EEZ, the ABC available to the U.S. must account for Canadian catch in the Canadian EEZ; therefore, the stock-

wide ABC is reduced to account for Canadian catch, and the amount remaining after the adjustment for Canadian catch is the U.S. ABC. The proposed GB cod ABC may be revised through Framework 72 to the FMP, on which the Council voted on December 3, 2025, to submit to NMFS for approval. If approved, the Framework 72 GB cod ABC would replace and increase the GB cod ABC proposed here.

Through Amendment 25, the Council recommends catch limits for GB cod for the 2026 fishing year and EGOM cod, WGOM cod, SNE cod for the 2026–2027 fishing years, based on stock

assessments completed in 2024 (see table 3). Specifications for fishing year 2027 are projections that would be considered and reaffirmed or adjusted in the annual framework adjustment for 2027. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2026–FY 2027) of the Amendment 25 draft EA (see **ADDRESSES** for information on how to access this document).

TABLE 3—PROPOSED FISHING YEARS 2026–2027 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES FOR ATLANTIC COD STOCKS
[mt, live weight]

Stock	2026		2027	
	OFL	U.S. ABC	OFL	U.S. ABC
EGOM Cod	50	39	39	30
WGOM Cod	603	460	769	586
GB Cod *	433	106	.....	.....
SNE Cod	47	36	65	36

Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

* If approved, Framework 72 would replace these specifications with an OFL of 473 mt and a U.S. ABC of 151 mt.

Annual Catch Limits

Development of Annual Catch Limits

The U.S. ABC for each stock in the Northeast Multispecies FMP is divided among the various fishery components to account for all sources of fishing mortality. For stocks with a recreational allocation, the U.S. ABC is first divided between the commercial and recreational fisheries, before being further divided into sub-components and sub-ACLs. An estimate of catch expected from State waters and the other sub-component (*e.g.*, Federal commercial non-groundfish fisheries and some recreational groundfish fisheries, if there is not a recreational allocation) is deducted from the U.S. ABC. The remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation have a sub-ACL set by reducing their portion of the ABC (the sub-ABC) to account for management uncertainty and are subject to accountability measures (AM) if they exceed their respective catch limit during the fishing year. This process is described fully in appendix II of the Amendment 25 draft EA (see **ADDRESSES**).

For each stock allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative potential sector contributions (PSC) associated with those sectors. This action does not change an individual's qualifying fishing history or the manner in which an individual vessel's PSC contributes to a sector's cumulative PSC. The preliminary sector and common pool sub-ACLs proposed in this action are based on fishing year 2025 PSCs and fishing year 2025 sector rosters; final allocations to reflect 2026 PSCs and rosters would be provided in a future action. Tables 4 and 5 provide the proposed catch limits for the 2026 and 2027 fishing years.

Amendment 25's proposal to implement the transition from two to four stocks of Atlantic cod would require updates to the current system of setting catch limits for the cod stocks, including setting recreational sub-ACLs as needed, developing a method for applying a sector's PSCs to the new cod stocks, and establishing management uncertainty buffers for the new cod stocks. Measures separate from specification setting, such as establishing common pool AMs and

possession limits, are described in the relevant sections later in this preamble.

Recreational Allocations

Amendment 25 proposes to create a recreational sub-ACL for WGOM cod, and allocate 27.5 percent of the WGOM cod ABC to the recreational fishery. The remaining 72.5 percent of the ABC would be distributed between commercial fisheries, including commercial groundfish, State, and other Federal fisheries. This recreational allocation would reflect the 2001 through 2006 catch data from the new WGOM cod stock area. Previously, Amendment 16 (75 FR 18262; April 9, 2010) established a recreational sub-ACL for GOM cod based on the proportional amount of recreational and commercial catch from 2001 through 2006 for the old GOM cod stock area. While most recreational catch within the WGOM cod stock area comes from the northern portion (previously the GOM stock area), recalculating the proportional catch for the full WGOM stock area reflects a better representation of the historical catch levels for the WGOM stock area when determining the appropriate proportion of the overall WGOM cod ABC to allocate to the recreational fishery.

Amendment 25 also proposes a recreational sub-ACL for SNE cod, and allocates 73.5 percent of the SNE cod ABC to the recreational fishery, after first reducing the ABC to account for catch from State and other Federal fisheries. The remaining 26.5 percent would be allocated to the commercial groundfish fishery. This recreational allocation was developed by the Council to fairly balance the proportion of catch from the SNE cod stock area from recreational and commercial fisheries, using the most recent 5 years of catch data, and the estimated amount of catch that the commercial fishery is expected to achieve in the upcoming fishing year. Both commercial and recreational catch are evaluated using the same time period, a period during which both fisheries were subject to restrictions on catch, to determine the amount of these stocks caught by each fishery. A recreational allocation of SNE cod is necessary to provide accountability to every segment of the fishery that catches this stock, and to develop more segment-specific management measures that more effectively reduce fishing mortality for such segments.

The use of a SNE cod recreational sub-ACL is intended to be reasonably calculated to promote conservation. If an overage of a sub-ACL or ACL occurs, AMs help to correct operational issues that cause overages and biological

consequences resulting from overages. Because the existing reactive and proactive recreational AMs (that provide a regulatory process for the Regional Administrator to adjust recreational measures on an annual basis) are applicable to any groundfish stock with a recreational sub-ACL, the establishment of a recreational sub-ACL for SNE cod would apply these AMs to the SNE cod stock, if the sub-ACL is exceeded. These AMs are expected to help correct operational issues and better ensure sub-ACLs are not exceeded. Without a recreational sub-ACL, excessive catch by the recreational fishery that contributes to an ACL overage would require pound-for-pound payback by the commercial fishery.

Commercial Allocations

For the purpose of allocating to sectors and common pool vessels, Amendment 25 proposes to continue to use the existing PSCs for the previous GOM and GB cod stocks, and apply them to the commercial groundfish sub-ACL to calculate the sector and common pool sub-ACLs as follows. For EGOM cod, the GOM cod PSCs would be used. For the revised GB cod and SNE cod, the GB cod PSCs would be used. This is because, for each of these stocks, the new stock area falls completely within the old stock area on which the PSC is based.

Unlike the other three new stock areas, the WGOM cod stock area is made up of three statistical areas (513, 514, 515) that were in the GOM cod stock area and three statistical areas (521, 526, 541) that were in the old GB cod stock area (see figure 1). Therefore, it was necessary to develop an apportionment approach that applies existing sector cumulative PSCs to the new stock area to approximate sector vessels' catch performances in the old stock areas as closely as practicable, while facilitating effective conservation and management of the new stocks. Amendment 25 proposes to divide the commercial groundfish sub-ACL for WGOM cod into a northern and southern portion, which correspond to the areas previously within the GOM cod and old GB cod stock areas, respectively, using a proportion of historic commercial groundfish fishery catch that came from the two areas.

In order to balance the historic catch levels with the differences in quotas and fishing opportunities between the two stock areas, Amendment 25 proposes to include a sub-set of the fishing years for the historic catch. Specifically, based on input from the fishing industry, catch from fishing years 2010–2012, 2017, and 2022–2023 were considered to best

account for differences between the GOM and old GB cod stocks, differences in ACLs over the time period, and differences in fishing opportunities, practices, and equities between vessels operating in the north and south portions of the WGOM stock area. The potential for the historical commercial sub-ACL to have an outsized effect on the relative catch in the two old stock areas is minimized by limiting the criteria to fishing years where the commercial sub-ACL of one stock was less than twice the other stock and by averaging multiple years of catch performance covering an extended period of sector system operations. The result is 68 percent from the northern portion and 32 percent from the southern portion. More information regarding the analyses conducted to support this decision is included in appendix III (Development of Phase I Cod Transition—Sector Allocation Bridge Approach) of the Amendment 25 draft EA.

The WGOM cod commercial groundfish sub-ACL would be divided based on these percentages, and the GOM cod and GB cod PSCs would be applied to the northern and southern portions, respectively, before being recombined to calculate total WGOM cod sector and common pool sub-ACLs. Therefore, a sector would be allocated WGOM cod on the basis of its GOM cod and GB cod PSC, and could fish that quota throughout the WGOM cod stock area. These measures are expected to facilitate catch accounting and accountability that would help achieve biological conservation, manage stocks at sustainable levels, and achieve OY while maintaining historic fishing opportunities.

Management Uncertainty Buffers

Amendment 16 set management uncertainty buffers for each of the groundfish stocks. For the new cod stocks, Amendment 25 proposes to use the same approach established by Amendment 16. Recreational sub-ACLs have a 7-percent buffer applied; commercial sub-ACLs generally have a 5-percent buffer. Although Amendment 16 set a lower buffer for certain stocks

that do not have a state waters component, Amendment 25 proposes to set the fishing year 2025 GB cod management uncertainty buffer at 5 percent given the increased uncertainty caused by the lack of agreement on the shared United States/Canada quota. Amendment 25 also proposes that for SNE cod, the sector management uncertainty buffer should be left in place even under a 100-percent at-sea monitoring (ASM) coverage target. The annual framework will provide more information regarding the ASM target coverage level ahead of the 2026 fishing year, and explain how sector allocations could change based on that target and any associated buffer changes.

Sector Allocations

NMFS calculates the sector's allocation for each stock by summing its members' PSCs for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 6 shows the total GOM cod and GB cod PSCs for each sector, by stock, for fishing year 2025 based on 2025 sector rosters. It also provides the proposed allocations of EGOM, WGOM, GB, and SNE cod that each sector would be allocated, in metric tons (mt) and thousands of pounds (lb), for fishing year 2026, under the specifications proposed in this action. The proposed common pool sub-ACLs are also included in table 6 for comparison.

Common Pool Total Allowable Catches

The common pool sub-ACL for each allocated stock (except for SNE/MA winter flounder) is further divided into trimester TACs. The Trimester TAC AM for the common pool fishery requires that, once NMFS projects that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock will be closed for the remainder of the trimester. These closures apply to all common pool vessels fishing on a groundfish trip with gear capable of catching the pertinent stock. Any uncaught portion of the TAC in Trimester 1 or Trimester 2 is carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC are deducted from the Trimester 3 TAC.

Any overages of the total common pool sub-ACL are deducted from the following fishing year's common pool sub-ACL for that stock. Uncaught portions of any trimester TAC may not be carried over into the following fishing year.

The distribution of the common pool sub-ACLs into trimesters was adopted in Amendment 16 to the FMP and was based on landing patterns at that time. Framework Adjustment 57 to the FMP (83 FR 18985; May 1, 2018) subsequently updated the trimester TAC distributions for GB cod and GOM cod, as well as other groundfish stocks, to reflect changes in landing patterns and to prevent early trimester closures.

Amendment 25 proposes trimester TAC distributions for the EGOM cod, WGOM cod, SNE cod, and GB cod common pool sub-ACLs. Table 7 includes proposed trimester TAC distributions for these four stocks. For WGOM cod and SNE cod, these distributions were developed following the process outlined in Amendment 16, using common pool catch by trimester over the most recent 5-year period for which data are available, fishing years 2019 through 2023. For EGOM cod and GB cod, landings and trips were low during this time period. As a result, the proposed trimester TAC distribution for these stocks were modified from the Amendment 16 process to more evenly distribute the common pool sub-ACL for these stocks and ensure a minimum amount in each trimester. Table 8 summarizes the Atlantic cod common pool trimester TACs proposed in this action, based on fishing year 2026 rosters.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.*, stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (*i.e.*, special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. To reflect the transition from two to four cod stocks, this action proposes to specify incidental TACs for the four new cod stocks (tables 9–11).

TABLE 4—PROPOSED CATCH LIMITS FOR THE 2026 FISHING YEAR
[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small- mesh fisheries	State waters sub- component	Other sub- component
	A to H	A + B + C	A	B	C	D	E	F	G	H
EGOM Cod	37	37	35	1.4	.....	.....	.....	.....	0.2	0.4
WGOM Cod	436	407	279	11	118	.....	.....	.....	23	5
GB Cod	101	93	89	3.2	.....	.....	.....	.....	0	8.5

TABLE 4—PROPOSED CATCH LIMITS FOR THE 2026 FISHING YEAR—Continued
[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small- mesh fisheries	State waters sub- component	Other sub- component
	A to H	A + B + C	A	B	C	D	E	F	G	H
SNE Cod	34	25	6.5	0.2	18	.....	.....	.....	6.1	3.2

TABLE 5—PROPOSED CATCH LIMITS FOR THE 2027 FISHING YEAR *
[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small- mesh fisheries	State waters sub- component	Other sub- component
	A to H	A + B + C	A	B	C	D	E	F	G	H
EGOM Cod	29	28	27	1.1	.....	.....	.....	.....	0.2	0.3
WGOM Cod	555	519	355	14	150	.....	.....	.....	30	6.4
SNE Cod	34	25	6.5	0.2	18	.....	.....	.....	6.1	3.2

* GB cod does not have catch limits proposed for fishing year 2027, and is therefore not included in table 5.

TABLE 6—CUMULATIVE PSC (Percentage), ESTIMATED ACE (in mt) AND ESTIMATED ACE (in 1,000 lb) FOR EACH
SECTOR BY COD STOCK FOR FISHING YEAR 2026 *¹

Sector name	MRI count	PSC		ACE in mt				ACE in 1,000 lb			
		GOM cod	GB cod	EGOM cod	WGOM cod	GB cod	SNE cod	EGOM cod	WGOM cod	GB cod	SNE cod
Fixed Gear Sector	58	0.621182828	10.2421232	0	11	9	1	0	24	21	2
Maine Coast Community Sector	107	16.04726033	2.14381876	6	34	2	0	13	74	4	0
Maine Permit Bank	11	1.161689606	0.134391577	0	2	0	0	1	5	0	0
Mooncusser Sector	51	7.219127919	11.7507685	3	25	11	1	6	55	24	2
NEFS 2	128	25.72844012	10.06043816	9	60	9	1	21	132	21	1
NEFS 4	58	11.18238598	8.630642562	4	30	8	1	9	66	18	1
NEFS 5	14	0.328819005	0.354727202	0	1	0	0	0	2	1	0
NEFS 6	3	0.169006172	0.532779632	0	1	0	0	0	2	1	0
NEFS 8	114	6.450874228	34.51388651	2	45	32	2	5	99	70	5
NEFS 10	20	1.677842528	0.171299148	1	3	0	0	1	8	0	0
NEFS 11	38	10.53615357	0.398248397	4	21	0	0	8	47	1	0
NEFS 12	25	3.840403876	0.871446785	1	8	1	0	3	18	2	0
NEFS 13	49	0.338573624	7.53239015	0	8	7	1	0	17	15	1
New Hampshire Permit Bank	4	1.151880562	0.000826964	0	2	0	0	1	5	0	0
Sustainable Harvest Sector 1	41	4.502129382	5.053437132	2	14	5	0	4	30	10	1
Sustainable Harvest Sector 2	14	1.137391277	1.297760061	0	3	1	0	1	8	3	0
Sustainable Harvest Sector 3	29	3.980217806	2.855176067	1	10	3	0	3	23	6	0
Common Pool	495	3.926621182	3.455839183	1	11	3	0	3	24	7	1
All Sectors	764	96.07337882	96.54416082	35	279	89	7	77	615	197	14

* The data in this table are based on sector rosters for fishing year 2025 and may change based on final fishing year 2026 sector enrollment.

¹ Numbers are rounded to the nearest thousand pounds and nearest metric ton. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in pounds.

TABLE 7—PROPOSED TRIMESTER TAC DISTRIBUTIONS (percent) FOR ATLANTIC COD STOCKS

Stock	Trimester 1	Trimester 2	Trimester 3
EGOM Cod	80	10	10
WGOM Cod	55	22	23
GB Cod	33	33	34
SNE Cod	36	31	33

TABLE 8—PROPOSED FISHING YEARS 2026–2027 COMMON POOL TRIMESTER TACS
[mt, live weight] *

Stock	2026			2027		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
EGOM Cod	1.1	0.1	0.1	0.9	0.1	0.1
WGOM Cod	6.0	2.4	2.5	7.6	3.1	3.2
GB Cod	1.1	1.1	1.1	.....	.....	.....

TABLE 8—PROPOSED FISHING YEARS 2026–2027 COMMON POOL TRIMESTER TACS—Continued
[mt, live weight]*

Stock	2026			2027		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
SNE Cod	0.083	0.071	0.076	0.072	0.062	0.066

*The data in this table are based on sector rosters for fishing year 2025 and may change based on final fishing year 2026 sector enrollment.

TABLE 9—PROPOSED COMMON POOL INCIDENTAL CATCH TACS FOR THE 2026–2027 FISHING YEARS
[mt, live weight]

Stock	Percentage of common pool sub-ACL	2026	2027
EGOM Cod	1	0.01	0.01
WGOM Cod	1	0.11	0.14
GB Cod	1.68	0.05	.....
SNE Cod	1	0.00	0.00

TABLE 10—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (percent)	Eastern U.S./Canada haddock SAP (percent)
EGOM Cod	100	n/a
WGOM Cod	100	n/a
GB Cod	60	40
SNE Cod	100	n/a

TABLE 11—PROPOSED FISHING YEARS 2026–2027 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT
PROGRAM
[mt, live weight]

Stock	Regular B DAS Program		Eastern U.S./Canada Haddock SAP	
	2026	2027	2026	2027
EGOM Cod	0.01	0.01	n/a	n/a
WGOM Cod	0.11	0.14	n/a	n/a
GB Cod	0.03	.....	0.02	.....
SNE Cod	0.00	0.00	n/a	n/a

Common Pool AMs and Other Management Measures

Common Pool Trimester Total Allowable Catch Areas for Cod Stocks

As previously described in Common Pool Total Allowable Catches, the Trimester TAC AM requires closure of a stock's Trimester TAC Area for common pool vessels fishing when

common pool catch is projected to reach 90 percent of the Trimester TAC for that stock. For the cod stocks, these closures would apply to common pool vessels fishing with trawl, gillnet, or longline/hook gear. Amendment 25 proposes Trimester TAC Areas for each of the four cod stocks (table 12). These areas were developed via the process outlined

in Amendment 16, which established trimester TAC closure areas based on the statistical areas that made up 90 percent of the total commercial catches using the most recent 5-year period of data. For the four new cod stocks, Amendment 25 used commercial catch data from fishing years 2019 through 2023.

TABLE 12—PROPOSED TRIMESTER TAC AREAS FOR ATLANTIC COD STOCKS, BY STATISTICAL AREA

Stock	Trimester TAC area, by statistical area
EGOM Cod	512.
WGOM Cod	513, 514, 521.
GB Cod	522, 561.
SNE Cod	537, 539, 613.

Common Pool Baseline Trip Limits for Cod Stocks

Amendment 25 proposes common pool trip limits for each of the revised cod stocks. Common pool trip limits for DAS vessels would be established as in table 13. The DAS trip limit for WGOM cod was developed via a trip limit analysis that used historical fishing effort and landings to estimate potential

landings of the stock in fishing year 2026. For EGOM cod and GB cod, landings and effort for these stocks has been limited in recent years. The common pool trip limits proposed in this action are intended to provide for a limited amount of bycatch of cod that may result from fishing for other stocks in the common pool. For SNE cod, the proposed common pool sub-ACL is insufficient to support any amount of

landings, even as bycatch, and so Amendment 25 proposes prohibiting common pool vessels' possession of this stock.

This action also proposes common pool trip limits for each of the revised cod stocks for the non-DAS Northeast multispecies permits (Handgear A, Handgear B, and the Small Vessel Category permit) (table 13).

TABLE 13—PROPOSED 2026 COMMON POOL DAILY AND TRIP POSSESSION LIMITS

Stock	Proposed 2026 Common Pool Daily and Trip Possession Limits			
	DAS permits	Handgear A	Handgear B	Small vessel category
EGOM Cod	25 lb (11 kg) per DAS, up to 50 lb (23 kg) per trip	25 lb (11 kg) per trip.		
WGOM Cod	50 lb (23 kg) per DAS, up to 100 lb (45 kg) per trip	50 lb (23 kg) per trip ..	25 lb (11 kg) per trip ..	50 lb (23 kg) per trip.
GB Cod	25 lb (11 kg) per DAS, up to 50 lb (23 kg) per trip	25 lb (11 kg) per trip.		
SNE Cod	0 lb (0 kg) per trip; possession prohibited.			

Recreational Management Measures

Under the provisions at § 648.89(f)(3), Northeast multispecies fishery regulations include proactive recreational AMs to ensure that the recreational sub-ACL for recreational stocks with a sub-ACL is achieved, but not exceeded. For the proactive AMs, the Regional Administrator, in consultation with the Council, develops and implements recreational management measures for the upcoming fishing year, including minimum fish size, bag limit, season, and/or other measures. The FMP also includes reactive AMs to correct the cause or mitigate the effects of an overage, if one occurs.

WGOM Cod

This rule proposes setting WGOM cod recreational measures, specifically a minimum size of 23 inches (58.4 cm), with a possession limit of one fish and open seasons of May 1–May 31 and September 1–October 31 (see table 14). These measures are based on the proposed Amendment 25 WGOM cod sub-ACL and the Council's recommended management measures provided in a February 6, 2025, letter to the Regional Administrator, originally intended for fishing year 2025. The Council is expected to provide

recommendations for recreational measures in January 2026, and any changes to these proposed measures could be made in a future action.

The proposed measures are expected to adequately constrain recreational catch of WGOM cod based on the bio-economic model estimates. To develop its recommendations for fishing year 2025, the Council considered projected recreational GOM haddock and WGOM cod removals based on several management measure scenarios. The scenarios included combinations of minimum fish sizes, possession limits, and closed seasons for GOM haddock and WGOM cod using a newly developed Decision Support Tool created by the Northeast Fisheries Science Center.

GB and EGOM Cod

Amendment 25 proposes to establish a temporary regulatory process for the Regional Administrator to set EGOM cod and GB cod recreational measures for fishing year 2026 to maintain consistency with the other cod stocks, to the extent practicable. Following the consultation with the Council, NMFS would set recreational measures for EGOM cod and GB cod. Any measures set would remain in place unless changed in a future framework action.

As recommended by the Council, this action proposes to set EGOM cod and GB cod recreational measures consistent with WGOM cod measures, specifically a minimum size of 23 inches (58.4 cm), with a possession limit of one fish and open seasons of May 1–May 31 and September 1–October 31 (see table 14).

SNE Cod

As discussed in Specifications for Fishing Years 2026–2027, Amendment 25 includes a very small recreational sub-ACL for SNE cod. While the regulations provide procedures for the Regional Administrator to set the recreational measures for a stock with a sub-ACL, in this case the Council included the recreational measures for SNE cod as part of Amendment 25 for fishing year 2026. Amendment 25 proposes to establish a zero fish possession limit for SNE cod for all recreational fishermen (charter/party and private anglers) (see table 14). Given the very low ABC and recreational sub-ACL proposed for fishing year 2026, these are the only measures that would be expected to reduce mortality sufficiently. The Regional Administrator will evaluate the SNE cod recreational management measures annually as long as the stock has an associated recreational sub-ACL.

TABLE 14—PROPOSED RECREATIONAL COD MANAGEMENT MEASURES

Stock	Possession limit (for hire and private)	Minimum size in inches (cm)	Open season
WGOM Cod	1	23 (58.4)	May 1–May 31 and September 1–October 31.
GB Cod	1	23 (58.4)	May 1–May 31 and September 1–October 31.

TABLE 14—PROPOSED RECREATIONAL COD MANAGEMENT MEASURES—Continued

Stock	Possession limit (for hire and private)	Minimum size in inches (cm)	Open season
EGOM Cod	1	23 (58.4)	May 1–May 31 and September 1–October 31.
SNE Cod	No retention	n/a	CLOSED.

n/a: No minimum size proposed for SNE cod, because it is zero retention.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Amendment 25, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making the final determination, the Regional Administrator will consider the data, views, and comments received during the public comment period for this action.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this CLASSIFICATION and the Summary of Proposed Measures sections of this proposed rule and analyses contained in Amendment 25 and its accompanying EA/Regulatory Impact Review/IRFA. A copy of the full analysis is available from the Council (see ADDRESSES). A summary of the IRFA follows.

Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes management measures, including ACLs, for the Atlantic cod stocks that are part of the Northeast multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery, as required by the Magnuson-Stevens Act. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Amendment 25, and in the

SUPPLEMENTARY INFORMATION section of this proposed rule under the Summary of Proposed Measures heading, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

This proposed rule would apply to the commercial and recreational fisheries for groundfish, as well as the Atlantic sea scallop, small-mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries that overlap with the groundfish fishery. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those directly affected by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2024, NMFS had issued 669 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history (CPH)), 719 party/charter groundfish permits, 696 limited access and general category Atlantic sea scallop permits, 761 small-mesh multispecies permits, 71 Atlantic herring permits, and 743 large-mesh non-groundfish permits (*i.e.*, limited access summer flounder and scup permits). Therefore, this action potentially applies to 3,659 permits. When accounting for overlaps between fisheries, this number reduces to 2,144 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure and, for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Region Federal fishing permit. The current ownership data set is based

on calendar year 2023 permits and contains gross sales associated with those permits for calendar years 2019 through 2023.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see § 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 receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the five years from 2019 through 2023. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all of an entity's affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2019–2023) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,648 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,648 business entities identified could be directly regulated by this proposed action. Of these 1,648 entities, 891 are commercial fishing entities, 326 are for-hire entities, and 431 did not have revenues (*i.e.*, were inactive in 2023). Of the 891 commercial fishing entities, 881 are categorized as small entities and 10 are categorized as large entities, per the NMFS guidelines. Furthermore, 412 of these commercial fishing entities held limited access groundfish permits, with 408 of these entities being classified as small businesses and 4 of these entities being classified as large businesses. All 326 for-hire entities are categorized as small businesses.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

The proposed action contains no information requirements under the Paperwork Reduction Act of 1995 (PRA).

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The economic impacts of each proposed measure are discussed in more detail in sections 6.5 and 7.11 of the draft Amendment 25 EA (see **ADDRESSES**) and are not repeated here. These considerations include the status determination criteria, the updated groundfish specifications, and other measures in this proposed rule, and the No Action alternative. An alternative approach to dividing the northern and southern portions of the WGOM cod stock area for allocating to the commercial fishery was considered by the Council, but was moved to “considered but rejected.” The proposed action is predicted to generate \$34.7 million in gross revenues for the sector portion of the commercial groundfish trips. Under the No Action alternative, sector revenue could not be estimated due to the lack of specifications for the new Atlantic cod stocks for the upcoming fishing year. Small entities engaged in the commercial groundfish fishery,

including both the sector component and the common pool component, will be positively impacted by the proposed action relative to No Action. However, the proposed action is predicted to result in \$7.0 million less than the amount of gross revenues generated in fishing year 2023. Small entities engaged in common pool groundfish fishing are expected to be positively impacted by the proposed action, relative to the No Action alternative.

The recreational sub-ACLs for WGOM cod and SNE cod would be defined under the proposed action, and because these sub-ACLs would not be defined under the No Action, the proposed action is expected to positively impact the recreational fishery relative to the No Action. However, relative to fishing year 2023, the zero-possession recreational limit for SNE cod is expected to negatively impact the recreational fishery. The proposed recreational measures for WGOM cod are expected to have a positive effect on small entities, because they are expected to increase opportunity to harvest WGOM cod.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: March 3, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, add the definitions for “WGOM cod northern portion” and “WGOM cod southern portion” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

WGOM cod northern portion means the geographical area of the WGOM cod stock area, as defined in § 648.88(a)(2), that overlaps the GOM Stock Area 1, as described in § 648.10(k)(3)(i).

WGOM cod southern portion means the geographical area of the WGOM cod stock area, as defined in § 648.88(a)(2), that overlaps the Inshore GB Stock Area 2 and SNE/MA Stock Area 4, as described in § 648.10(k)(3)(ii) and (iv).

■ 3. Amend § 648.82 as follows:

- a. Revise paragraphs (n)(2)(i)(A), (n)(2)(ii) introductory text, and (n)(2)(ii)(A) and (B);
- b. Redesignate paragraphs (n)(2)(ii)(C) through (N) as paragraphs (n)(2)(ii)(E) through (P); and
- c. Add new paragraphs (n)(2)(ii)(C) and (D).

The revisions and additions read as follows:

§ 648.82 Effort-control program for NE multispecies vessels.

* * * * *

(n) * * *

(2) * * *

(i) * * *

(A) *Trimester TAC distribution.* With the exception of SNE/MA winter flounder, any sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4) shall be apportioned into 4-month trimesters, beginning at the start of the fishing year (*i.e.*, Trimester 1: May 1–August 31; Trimester 2: September 1–December 31; Trimester 3: January 1–April 30), as follows:

TABLE 1 TO PARAGRAPH (n)(2)(i)(A)—PORTION OF COMMON POOL SUB-ACLs APPORTIONED TO EACH STOCK FOR EACH TRIMESTER

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
EGOM cod	80	10	10
WGOM cod	55	22	23
GB cod	33	33	34
SNE Cod	36	31	33
GB haddock	27	33	40
GOM haddock	27	26	47
GB yellowtail flounder	19	30	51
SNE/MA yellowtail flounder	21	28	51
CC/GOM yellowtail flounder	57	26	17
American plaice	74	8	18
Witch flounder	55	20	25
GB winter flounder	8	24	68
GOM winter flounder	37	38	25
Redfish	25	31	44
White hake	38	31	31

TABLE 1 TO PARAGRAPH (n)(2)(i)(A)—PORTION OF COMMON POOL SUB-ACLS APPORTIONED TO EACH STOCK FOR EACH TRIMESTER—Continued

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
Pollock	28	35	37

* * * * *

(ii) *Stock area closures.* Unless otherwise specified in this paragraph (n)(2)(ii), if the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph (n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred to all common pool vessels on a NE multispecies DAS using gear capable of catching such stocks for the remainder of that trimester, as specified in paragraphs (n)(2)(i)(A) through (P) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(I) of this section until the beginning of Trimester 2 on September 1 of that fishing year. Based upon all available information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred. Common pool vessels holding either a Handgear A or B permit and fishing with handgear or tub trawls are exempt from stock area closures for white hake. The Regional Administrator may exempt Handgear A and B permitted vessels from stock area closures for other stocks pursuant to this paragraph (n)(2)(ii) if it is determined that catches of the respective species or stock by these vessels are less than 1 percent of the common pool catch of that species or stock. The Regional Administrator shall make such determination prior to the start of the fishing year through a notice published in the **Federal Register**, consistent with the Administrative Procedure Act, and any such determination shall remain in effect until modified.

(A) *EGOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the EGOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by straight lines connecting the following points in the order stated:

TABLE 2 TO PARAGRAPH (n)(2)(ii)(A)—EGOM COD TRIMESTER TAC AREA

Point	N latitude	W longitude
EGOM1	44°23'58"	67°57'35"
EGOM2	44°10'	67°50'
EGOM3	44°00'	67°50'
EGOM4	44°00'	67°40'
EGOM5	43°20'	67°40'
EGOM6	43°20'	69°00'
EGOM7	43°40'	69°00'
EGOM8	43°40'	69°20'

(B) *WGOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the WGOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by the straight lines connecting the following points in the order stated:

TABLE 3 TO PARAGRAPH (n)(2)(ii)(B)—WGOM COD TRIMESTER TAC AREA

Point	N latitude	W longitude
WGOM1	(¹)	69°20'
WGOM2	43°40'	69°20'
WGOM3	43°40'	69°00'
WGOM4	43°10'	69°00'
WGOM5	43°10'	69°10'
WGOM6	43°00'	69°10'
WGOM7	43°00'	69°20'
WGOM8	42°50'	69°20'
WGOM9	42°50'	69°40'
WGOM10	42°20'	69°40'
WGOM11	42°20'	68°50'
WGOM12	41°00'	68°50'
WGOM13	41°00'	69°30'
WGOM14	41°10'	69°30'
WGOM15	41°10'	69°50'
WGOM16	41°20'	69°50'
WGOM17	(²)	70°00'

TABLE 3 TO PARAGRAPH (n)(2)(ii)(B)—WGOM COD TRIMESTER TAC AREA—Continued

Point	N latitude	W longitude
WGOM18	(³)	70°00'

¹ Intersection of south-facing ME coastline and 69°20' W Long.

² Northeast-facing coastline of Nantucket, MA.

³ South-facing coastline of Cape Cod, MA.

(C) *GB Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

TABLE 4 TO PARAGRAPH (n)(2)(ii)(C)—GB COD TRIMESTER TAC AREA

Point	N latitude	W longitude
GB1	42°20'	68°50'
GB2	42°20'	(¹)
GB3	41°50'	(¹)
GB4	41°50'	67°40'
GB5	41°20'	67°40'
GB6	41°20'	68°10'
GB7	41°10'	68°10'
GB8	41°10'	68°20'
GB9	41°00'	68°20'
GB10	41°00'	68°50'
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

(D) *SNE Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by straight lines connecting the following points in the order stated and bounded by the coastline:

TABLE 5 TO PARAGRAPH (n)(2)(ii)(D)—SNE COD TRIMESTER TAC AREA

Point	N latitude	W longitude
SNE1	(¹)	71°10'
SNE2	41°20'	71°10'

TABLE 5 TO PARAGRAPH (n)(2)(ii)(D)—
SNE COD TRIMESTER TAC AREA—
Continued

Point	N latitude	W longitude
SNE3	41°20'	(2)
SNE4	(3)	70°00'
SNE5	39°50'	70°00'
SNE6	39°50'	71°40'
SNE7	40°00'	71°40'
SNE8	40°00'	73°00'
SNE9	(4)	73°00'
SNE10	41°00'	(5)
SNE11	41°00'	71°40'
SNE12	(1)	71°40'

¹ South-facing coastline of Rhode Island.

² West-facing coastline of Martha's Vineyard, MA.

³ South-facing coastline of Nantucket, MA.

⁴ South-facing coastline of Long Island, NY.

⁵ Southeast-facing coastline of Long Island, NY.

* * * * *

■ 4. Amend § 648.85 by revising paragraph (b)(5) introductory text and paragraph (b)(6)(iv)(D) to read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(5) *Incidental Catch TACs*. Unless otherwise specified in this paragraph

(b)(5), Incidental Catch TACs shall be based upon the portion of the ACL for a stock specified for common pool vessels pursuant to § 648.90(a)(4), and allocated as described in this paragraph (b)(5), for each of the following stocks: WGOM cod, EGOM cod, GB cod, SNE cod, GB yellowtail flounder, CC/GOM yellowtail flounder, American plaice, SNE/MA winter flounder, and witch flounder. Because GB yellowtail flounder and GB cod are transboundary stocks, the incidental catch TACs for these stocks shall be based upon the common pool portion of the ACL available to U.S. vessels. NMFS shall send letters to limited access NE multispecies permit holders notifying them of such TACs.

* * * * *

(6) * * *

(iv) * * *

(D) *Landing limits*. Unless otherwise specified in this paragraph (b)(6)(iv)(D), or restricted pursuant to § 648.86, a NE multispecies vessel fishing in the Regular B DAS Program described in this paragraph (b)(6), and fishing under a Regular B DAS, may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, up to a maximum of 1,000 lb (454 kg) per trip, of any of the

following species/stocks from the areas specified in § 648.88: Cod (EGOM, WGOM, GB, and SNE), American plaice, witch flounder, SNE/MA winter flounder, and GB yellowtail flounder; and may not land more than 25 lb (11.3 kg) per DAS, or any part of a DAS, up to a maximum of 250 lb (113 kg) per trip of CC/GOM yellowtail flounder. In addition, trawl vessels, which are required to fish with a haddock separator trawl, as specified in paragraph (a)(3)(iii)(A) of this section, or a Ruhle trawl, as specified in paragraph (b)(6)(iv)(J) of this section, and other gear that may be required in order to reduce catches of stocks of concern as described in paragraph (b)(6)(iv)(J) of this section, are restricted to the trip limits specified in paragraph (e) of this section.

* * * * *

■ 5. Amend § 648.86 by revising Table 1 to Paragraph (a)(1) to read as follows:

§ 648.86 NE Multispecies commercial possession restrictions.

* * * * *

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Stock ¹	DAS limit ²	Trip limit ²
EGOM cod ³	25 lb per DAS	50 lb per trip.
WGOM cod ³	50 lb per DAS	100 lb per trip.
GB cod ³	25 lb per DAS	50 lb per trip.
SNE cod ³	0 lb per DAS	0 lb per trip.
GOM haddock	1,000 lb (453 kg) per DAS	2,000 lb (907 kg) per trip.
GB haddock	1,000 lb (453 kg) per DAS	2,000 lb (907 kg) per trip.
CC/GOM yellowtail flounder ⁴	1,500 lb (680 kg) per DAS	3,000 lb (1,360 kg) per trip.
GB yellowtail flounder ⁴	No daily limit	100 lb (45.4 kg) per trip.
SNE yellowtail flounder ⁴	200 lb (90.7 kg) per DAS	400 lb (181 kg) per trip.
American plaice	3,000 lb (1,360 kg) per DAS	6,000 lb (2,721 kg) per trip.
Witch flounder	No daily limit	1,500 lb (680 kg) per trip.
GB winter flounder	No daily limit	500 lb (227 kg) trip.
GOM winter flounder	No daily limit	2,000 lb (907 kg) per trip.
SNE/MA winter flounder	2,000 lb (907 kg) per DAS	4,000 lb (1,814 kg) per trip.
Redfish	Unlimited	Unlimited.
White hake	No daily limit	1,000 lb (453 kg) per trip.
Pollock	Unlimited	Unlimited.

¹ The stock areas that apply to these possession limits are specified in § 648.88.

² The possession limits in Table 1 to Paragraph (a)(1) may be adjusted in-season by the Regional Administrator, as specified under at § 648.86(a)(5). Current possession limits are available at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/northeast-multispecies-common-pool-fishery>.

³ Additional restrictions for cod stocks are specified at § 648.86(a)(6)(iii).

⁴ Additional restrictions for yellowtail flounder stocks are specified at § 648.86(a)(6)(iv).

* * * * *

■ 6. Amend § 648.87 as follows:

■ a. Revise paragraph (b)(1)(i)(C)(1) introductory text;

■ b. Add paragraph (b)(1)(i)(C)(1)(iii);

■ c. Revise paragraph (b)(1)(i)(E) introductory text and (b)(1)(i)(E)(2) paragraph heading.

The revisions and additions read as follows:

§ 648.87 Sector allocation.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) * * *

(1) *Maximum carryover*. With the exception of GB yellowtail flounder, and unless otherwise specified in (b)(1)(i)(C)(1)(iii) of this section a sector may carryover an amount of ACE equal to 10 percent of its original ACE for each stock that is unused at the end of one fishing year into the following fishing year, provided that the total unused

sector ACE plus the overall ACL for the following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. If this total exceeds the ABC, NMFS shall adjust the maximum amount of unused ACE that a sector may carryover (down from 10 percent) to an amount equal to the ABC of the following fishing year. Any adjustments made would be applied to each sector based on its total unused ACE and proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.

(iii) *Atlantic cod stocks carryover for fishing year 2026.* Unused fishing year 2025 ACE for the Atlantic cod stocks will not carryover to a sector's fishing year 2026 ACE for the Atlantic cod stocks. For the 2027 fishing year and onward, carryover for the Atlantic cod stocks will return to the processes described in (b)(1)(i)(C)(1) and (2) of this section.

(E) *Potential sector contribution (PSC).* For the purposes of allocating a share of the available ACL for each NE multispecies stock to approved sectors pursuant to § 648.90(a)(4), the landings history of all limited access NE multispecies permits shall be evaluated to determine each permit's share of the overall landings for each NE multispecies stock as specified in paragraphs (b)(1)(i)(E)(1) and (2) of this section. For the purposes of allocating a share of the available ACL for the four Atlantic cod stocks (*i.e.*, EGOM, WGOM, GB, and SNE cod) to approved sectors pursuant to § 648.90(a)(4), the PSCs will continue to be calculated for GOM cod and GB cod according to the method specified in Amendment 16, in accordance with paragraphs (b)(1)(i)(E)(1) and (2) of this section. When calculating an individual permit's share of the overall landings for a particular regulated species or ocean pout stock, landed weight shall be converted to live weight to maintain consistency with the way ACLs are calculated pursuant to § 648.90(a)(4) and the way ACEs are allocated to sectors pursuant to this paragraph (b)(1)(i). This calculation shall be performed on July 1 of each year, unless another date is specified by the Regional Administrator, to redistribute the landings history associated with permits that have been voluntarily relinquished or otherwise canceled among all remaining valid limited access NE multispecies permits as of that date

during the following fishing year. The PSC calculated pursuant to this paragraph (b)(1)(i)(E) shall remain with the permit indefinitely, but may be permanently reduced or eliminated due to a permit sanction or other enforcement action.

* * * * *

(2) *Calculation of PSC for GB cod.*

* * *

* * * * *

■ 7. Amend § 648.88 by revising paragraphs (a)(1) and (2) and adding paragraphs (a)(3) and (4) to read as follows:

§ 648.88 Multispecies stock area definitions.

* * * * *

(a) * * *

(1) *EGOM cod stock area.* The EGOM cod stock is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 1 TO PARAGRAPH (a)(1)—
EGOM COD STOCK AREA

Point	N latitude	W longitude
EGOM1	(1)	69°20'
EGOM2	(2)	67°00'
EGOM3	(2)	67°40'
EGOM4	43°20'	67°40'
EGOM5	43°20'	69°00'
EGOM6	43°40'	69°00'
EGOM7	43°40'	69°20'

¹ Intersection of south-facing ME coastline and 69°20' W long.

² U.S./Canada maritime boundary.

(2) *WGOM cod stock area.* The WGOM cod stock is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 2 TO PARAGRAPH (a)(2)—
WGOM COD STOCK AREA

Point	N latitude	W longitude
WGOM1	(1)	69°20'
WGOM2	43°40'	69°20'
WGOM3	43°40'	69°00'
WGOM4	43°20'	69°00'
WGOM5	43°20'	67°40'
WGOM6	(2)	67°40'
WGOM7	(3)	67°40'
WGOM8	42°20'	67°40'
WGOM9	42°20'	68°50'
WGOM10	39°50'	68°50'
WGOM11	39°50'	69°00'
WGOM12	39°00'	69°00'
WGOM13	39°00'	70°00'
WGOM14	(4)	70°00'

¹ Intersection of south-facing ME coastline and 69°20' W long.

² U.S./Canada maritime boundary (northern intersection with 67°40' W long).

³ U.S./Canada maritime boundary (southern intersection with 67°40' W long).

⁴ Intersection of south-facing coastline of Cape Cod and 70°00' W long.

(3) *GB cod stock area.* The GB cod stock area is the area defined by straight lines connecting the following points in the order stated:

TABLE 3 TO PARAGRAPH (a)(3)—GB
COD STOCK AREA

Point	N latitude	W longitude
GB1	42°20'	68°50'
GB2	42°20'	67°40'
GB3	(1)	67°40'
GB4	39°00'	(2)
GB5	39°00'	69°00'
GB6	39°50'	69°00'
GB7	39°50'	68°50'
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary (northern intersection with 67°40' W long).

² U.S./Canada maritime boundary (intersection with 39°00' N latitude).

(4) *SNE cod stock area.* The SNE cod stock area is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 4 TO PARAGRAPH (a)(4)—SNE
COD STOCK AREA

Point	N latitude	W longitude
SNE1	(1)	70°00'
SNE2	39°00'	69°00'
SNE3	39°00'	(2)
SNE4	35°00'	(2)
SNE5	35°00'	(3)

¹ Intersection of south-facing coastline of Cape Cod and 70°00' W long.

² U.S./Canada maritime boundary.

³ Intersection of east-facing coastline of Outer Banks, NC, and 35°00' N lat.

* * * * *

■ 8. Amend § 648.89 as follows:

■ a. Revise Table 1 to Paragraph (b)(1), Table 2 to Paragraph (c)(1), and Table 3 to Paragraph (c)(2); and

■ b. Add paragraph (g).

The revisions and addition read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (b)(1)

Species	Charter/party minimum size		Private minimum size		Maximum size	
	inches	cm	inches	cm	inches	cm
Cod:						
EGOM cod stock area ¹	23	58.4	23	58.4	N/A	N/A
WGOM cod stock area ¹	23	58.4	23	58.4	N/A	N/A
GB cod stock area ¹	23	58.4	23	58.4	N/A	N/A
SNE cod stock area ¹	N/A	N/A	N/A	N/A	N/A	N/A
Haddock:						
Inside GOM Regulated Mesh Area ²	17	43.2	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area ²	18	45.7	18	45.7	N/A	N/A
Pollock	19	48.3	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	12	30.5	N/A	N/A
Redfish	9	22.9	9	22.9	N/A	N/A

¹ Cod stock areas specified in § 648.88² GOM Regulated Mesh Area specified in § 648.80(a).

* * * * *

(1) * * *

(c) * * *

TABLE 2 TO PARAGRAPH (c)(1)

Stock	Open season	Possession limit	Closed season
EGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
WGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
GB Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
SNE Cod	CLOSED	No Retention	All Year.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
Northern Windowpane Flounder	CLOSED	No retention	All Year.
Southern Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section.		
Atlantic Wolffish	CLOSED	No retention	All Year.

(2) * * *

TABLE 3 TO PARAGRAPH (c)(2)

Stock	Open season	Possession limit	Closed season
EGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
WGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
GB Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
SNE Cod	CLOSED	No Retention	All Year.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29) April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.

TABLE 3 TO PARAGRAPH (c)(2)—Continued

Stock	Open season	Possession limit	Closed season
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N Windowpane Flounder	CLOSED	No retention	All Year.
S Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section.		
Atlantic Wolffish	CLOSED	No retention	All Year.

* * * * *

(g) *Regional Administrator authority for GB cod and EGOM cod recreational measures.* For the 2026 fishing year, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for GB cod and EGOM cod to set consistent measures with other stock areas, as appropriate. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the **Federal Register** prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2026 will be in effect beginning in fishing year 2027, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

* * * * *

■ 9. Amend § 648.90 by revising paragraphs (a)(4)(iii)(A)(1), (a)(4)(iii)(I)(2), and (a)(4)(iii)(I)(3) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(4) * * *

(iii) * * *

(A) * * *

(1) *Stocks allocated.* Unless otherwise specified in this paragraph (a)(4)(iii)(A), the ABCs/ACLs for WGOM cod and GOM haddock set pursuant to paragraph (a)(4) of this section shall be divided between commercial and recreational components, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006. The ABCs/ACLs for SNE cod set pursuant to paragraph (a)(4) of this section shall first have the state and other non-specified fisheries deducted as specified in paragraphs (a)(4)(iii)(B) and (C) of this section, and then divided between commercial and recreational components, as specified in a framework adjustment.

* * * * *

(I) * * *

(2) *WGOM cod.* For the purposes of allocating to the commercial NE multispecies fishery, the remaining ABC for WGOM cod shall first be apportioned between the WGOM cod northern and southern portions as follows: 68 percent of the remaining ABC to the northern portion and 32 percent of the remaining ABC to the southern portion. The share of the northern portion of WGOM cod allocated to a sector will be based on the

cumulative GOM cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E). The share of the southern portion of WGOM cod allocated to a sector will be based on the cumulative GB cod PSCs of vessels participating in sectors. The northern and southern portions shall then be summed for a final allocation to each sector and to vessels operating under the provisions of the common pool. The WGOM cod allocation may be fished throughout the entire geographic area of the WGOM cod stock area, as defined at § 648.88(a)(2).

(3) *Atlantic cod stocks except WGOM cod.* For the purpose of allocating EGOM cod to the commercial NE multispecies fishery, the cumulative GOM cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E) shall be applied to the remaining ABC for EGOM cod. For the purposes of allocating GB cod and SNE cod to the commercial NE multispecies fishery, the cumulative GB cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E) shall be applied to the remaining ABC for GB cod and SNE cod.

* * * * *

[FR Doc. 2026-05250 Filed 3-17-26; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 91, No. 52

Wednesday, March 18, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 17, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Sheep, Goats, and Certain Other Ruminants.

OMB Control Number: 0579–0453.

Summary of Collection: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and diseases of livestock.

APHIS regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases. The regulations in Title 9, *Code of Federal Regulations* (9 CFR) parts 91, 93, 94, 95, and 96 govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States to prevent the introduction of diseases such as bovine spongiform encephalopathy (BSE), a chronic degenerative disease that affects the central nervous system of cattle. The regulations also help prevent the spread of diseases currently in the United States, such as scrapie.

Need and Use of the Information: APHIS uses a variety of information collection procedures and forms to gather data in its efforts to prevent the introduction or spread of disease. Information collected via these procedures and forms includes, but is not limited to, the names of the exporter and importer of the animal commodities; the origins of the animals or animal products to be imported; the health status of the animals or the processing methods used to produce animal products to be imported; the destination of delivery in the United States; and whether the animals or animal products were temporarily offloaded in another country during transit to the United States.

Description of Respondents: State, Local, Tribal Governments; Business-for-profit organizations; Foreign Federal Government.

Number of Respondents: 741.

Frequency of Responses: 16,406.

Total Burden Hours: 8,260.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–05240 Filed 3–17–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 17, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Emergency Relief Program (ERP) Phase 1 and Phase 2.

OMB Control Number: 0560–0309.

Summary of Collection: The agency is requesting a reinstatement with change of a previously approved collection. The Extending Government Funding and Delivering Emergency Assistance Act, (Division B, Title I, Pub. L. 117–43) requires all producers who received an ERP Phase 1 or Phase 2 payment to purchase crop insurance or Noninsured Crop Disaster Assistance Program (NAP) coverage for the next available year(s). To ensure that ERP participants meet this statutory requirement, FSA is verifying compliance using crop insurance participation data on file with the Risk Management Agency (RMA) and NAP participation data on file with FSA, when possible, to minimize the burden on producers.

Producers who are determined to be compliant based on FSA or RMA data will be notified of the determination by mail, and no other action will be required. If FSA is not able to determine a producer's compliance based on available data, FSA will notify the producer by mail that they must submit supporting documentation to verify their compliance to retain their ERP payment. These producers will also be notified of FSA's final determination of compliance or noncompliance.

Need and Use of the Information: The information submitted by respondents will be used by FSA to determine eligibility and issue payments to eligible applicants under ERP.

Description of Respondents: Farms.

Number of Respondents: 218,930.

Frequency of Responses: Reporting; On Occasion.

Total Burden Hours: 24,975.

Rachelle Ragland-Greene,

Departmental Collection Clearance Officer.

[FR Doc. 2026–05248 Filed 3–17–26; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE**Submission for OMB Review; Comment Request**

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 17, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Standardizing Phytosanitary Treatment Regulations: Approval of Cold Treatment and Irradiation Facilities; Cold Treatment Schedules; Establishment of Fumigation and Cold Treatment Compliance Agree.

OMB Control Number: 0579–0450.

Summary of Collection: The United States Department of Agriculture (USDA) is responsible for preventing plant diseases or insect pests from entering the United States, preventing the spread of pests and noxious weeds not widely distributed into the United States, and eradicating those imported pests when eradication is feasible. The Plant Protection Act (7 U.S.C. 7701—*et seq.*) authorizes the Department to carry out this mission. Under the Plant Protection Act, the Animal and Plant Health Inspection Service (APHIS) is authorized, among other things, to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States. The phytosanitary treatment regulations established generic criteria that allows for the approval of new cold treatment and irradiation facilities; cold treatment

schedules; and the establishment of fumigation and cold treatment compliance agreements.

Need and Use of the Information: APHIS will collect information using PPQ form 519, Compliance Agreements, PPQ form 530, Limited Permit and other collection activities to provide generic criteria for new cold treatment and irradiation facilities, cold treatment schedules, and the establishment of fumigation and cold treatment compliance agreements.

Description of Respondents: Business or other for profit, State, Local, and Tribal Government; Federal Government (Foreign).

Number of Respondents: 46.

Frequency of Responses: Reporting; Annually.

Total Burden Hours: 57.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–05235 Filed 3–17–26; 8:45 am]

BILLING CODE 3410–34–P

CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD

[Agency Docket Number: CRCCRRB–2026–0008–N]

Notice of Formal Determination on Records Release

AGENCY: Civil Rights Cold Case Records Review Board.

ACTION: Notice.

SUMMARY: The Civil Rights Cold Case Records Review Board received 1,075 pages of records from the National Archives and Records Administration (NARA) related to a civil rights cold case incident to which the Review Board assigned the unique identifier 2024–003–050. NARA proposed 259 postponements of sealed federal grand jury information in the records. On February 27, 2026, the Review Board met and determined that 821 pages in full and 34 pages in part should be publicly disclosed in the Civil Rights Cold Case Records Collection. The Review Board decided not to request that the Attorney General petition the relevant court to unseal this information at this time but may choose to do so in the future. The Review Board previously reviewed and made formal disclosure determinations on records related to civil rights cold case incident 2024–004–011 in which NARA proposed postponements. NARA has proposed 4 additional postponements. On March 6, 2026, the Review Board determined that 767 pages in full and 1 page in part

should be publicly disclosed in the Civil Rights Cold Case Records Collection. By issuing this notice, the Review Board complies with the Civil Rights Cold Case Records Collection Act of 2018 that requires the Review Board to publish in

the **Federal Register** its determinations on the disclosure or postponement of records in the Collection no more than 14 days after the date of its decision.

FOR FURTHER INFORMATION CONTACT: Stephannie Oriabure, Chief of Staff,

Civil Rights Cold Case Records Review Board, 1800 F Street NW, Washington, DC 20405, (771) 221-0014, info@coldcaserecords.gov.

SUPPLEMENTARY INFORMATION:

Incident identifier	Postponement identifier	Review board decision
2024-003-050	2025-NARA-03-0088 through 2025-NARA-03-0348	Postpone. Reject.
2024-004-011	2026-NARA-04-0005 through 2026-NARA-04-0008	

Authority: Pub. L. 115-426, 132 Stat. 5489 (44 U.S.C. 2107).

Dated: March 12, 2026.

Stephannie Oriabure,
Chief of Staff.

[FR Doc. 2026-05222 Filed 3-17-26; 8:45 am]

BILLING CODE 6820-SY-P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, March 20, 2026, 10:00 a.m. EST.

ADDRESSES: Meeting to take place virtually and is open to the public. The meeting will be livestreamed on the Commission's YouTube page: <https://www.youtube.com/user/USCCR/videos>.

FOR FURTHER INFORMATION CONTACT: Joe Kim: 202-499-0263. publicaffairs@usccr.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month of March. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, March 20, 2026, is <https://www.streamtext.net/player?event=USCCR>. Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda

II. Business Meeting

A. State Advisory Committee

Presentations from:

- Ohio—Source-of-Income Housing Discrimination
- Puerto Rico—The Insular Cases and the Doctrine of the Unincorporated

Territory and its Effects on the Civil Rights of the Residents of Puerto Rico

- Arizona—Civil Rights and Disparities in Pediatric Healthcare Access for Racial and Ethnic Minority Families

B. Discussion and vote on Strategic Plan.

C. Management and Operations.

- Staff Director's Report

III. Adjourn Meeting

Dated: March 13, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026-05249 Filed 3-16-26; 11:15 am]

BILLING CODE 6335-01-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oklahoma Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Oklahoma Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold virtual business meetings via ZoomGov on Thursday, March 12th and Thursday, April 9, 2026 from 2:00 p.m.–3:00 p.m. CT. For the purpose of planning their upcoming panels on the death penalty. **DATES:** The meetings will take place on Thursday, March 12, 2026 from 2:00 p.m.–3:00 p.m. CT.

ADDRESSES:

Thursday, March 12, 2026

Registration Link (Audio/Visual):
<https://www.zoomgov.com/j/1619039920>.

- *Join by Phone (Audio Only):* 1-833-435-1820 USA Toll Free; Webinar ID: # 161 903 9920.

Thursday, April 9, 2026

Registration Link (Audio/Visual):
<https://www.zoomgov.com/j/1618938807>.

- *Join by Phone (Audio Only):* 1-833-435-1820 USA Toll Free; Webinar ID: #.

Agendas: (note: final meeting agendas will be available prior to the meeting dates).

- 3/12/26 <https://usccr.box.com/s/chrd2u818b4absdwtecwlxh8bgsg4no>
- 4/9/26 <https://usccr.box.com/s/8p6aky97drdr0i745abh1po94g6pumdr>

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer (DFO) at bpeery@usccr.gov or by phone at (202) 701-1376.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the videoconference 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 incurred charges. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Corrine Sanders, Support Services Specialist, csanders@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Brooke Peery (DFO) at bpeery@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Oklahoma Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at csanders@usccr.gov.

Dated: March 13, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026-05247 Filed 3-17-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-422-2025]

Approval of Subzone Status; Centrome Inc. dba Advanced Biotech; Oneonta, New York

On December 30, 2025, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the County of Orange, grantee of FTZ 37, requesting subzone status subject to the existing activation limit of FTZ 37, on behalf of Centrome Inc. dba Advanced Biotech, in Oneonta, New York.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 228, January 5, 2026). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 37I, was approved on March

13, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 37's 2,000-acre activation limit.

Dated: March 13, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026-05285 Filed 3-17-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-864, A-570-184, A-533-934, A-552-847]

Hard Empty Capsules From Brazil, the People's Republic of China, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders

Correction

In notice document 2026-03484, appearing on pages 8433 through 8436 in the issue of Monday, February 23, 2026, make the following correction:

On page 8435, the third table, titled "Vietnam," should read:

Producer	Exporter	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for export subsidy offset) (percent)
Suheung Vietnam Co., Ltd	Suheung Vietnam Co., Ltd	47.12	46.24
Vietnam-Wide Entity .....	.....	47.12	46.24

[FR Doc. C1-2026-03484 Filed 3-17-26; 8:45 am]

BILLING CODE 0099-10-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF613]

Atlantic Highly Migratory Species; Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in April, May, and June of 2026. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid

permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted in 2026 and will be announced in a future notice. In addition, NMFS has implemented online recertification workshops for persons who have already taken an in-person training.

DATES: The Atlantic Shark Identification Workshops will be held on April 15, 2026 and June 17, 2026. The Safe Handling, Release, and Identification Workshops will be held on April 8, 2026, May 4, 2026, and June 10, 2026.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Vero Beach, FL and Mt. Pleasant, SC. The Safe Handling, Release, and Identification Workshops will be held in Mt. Pleasant, SC, Fort Walton Beach, FL, and Melville, NY.

FOR FURTHER INFORMATION CONTACT:

Anna Quintrell by email at anna.quintrell@noaa.gov or by phone at 301-427-8503.

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS) fisheries (swordfish, sharks, tunas, and billfish) are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments pursuant to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are available online at: <https://www.fisheries.noaa.gov/atlantic-highly->

migratory-species/atlantic-shark-identification-workshops and <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops>.

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057, October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2023 will expire in 2026.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances that are extensions of a dealer's place of business.

Workshop Dates, Times, and Locations

1. April 15, 2026, 12 p.m.–4 p.m., Ocean Breeze Inn Vero Beach, 3384 Ocean Drive, Vero Beach, FL 32963.

2. June 17, 2026, 12 p.m.–4 p.m., Hilton Garden Inn, 300 Wingo Way, Mt. Pleasant, SC 29464.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Angler Conservation Education at 386–682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

1. Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
2. Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited access and swordfish limited access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057, October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2023 will expire in 2026. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited access permits. Additionally, new shark and swordfish limited access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued.

In addition to vessel owners, at least one operator on board vessels issued a limited access swordfish or shark permit that uses longline or gillnet gear is

required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates on board at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited access permits on which longline or gillnet gear is used.

Workshop Dates, Times, and Locations

1. April 8, 2026, 9 a.m.–1 p.m., Hilton Garden Inn, 300 Wingo Way, Mt. Pleasant, SC 29464.

2. May 4, 2026, 9 a.m.–1 p.m., Hilton Garden Inn, 1297 Miracle Strip Parkway SE, Fort Walton Beach, FL 32548.

3. June 10, 2026, 9 a.m.–1 p.m., Hilton Long Island, 598 Broad Hollow Road, Melville, NY 11747.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at 386–682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

1. Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
2. Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
3. Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach the owner and operator of a vessel that fishes with longline or gillnet gear the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth

sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

Online Recertification Workshops

NMFS implemented an online option for shark dealers and owners and operators of vessels that fish with longline and gillnet gear to renew their certificates in December 2021. To be eligible for online recertification workshops, dealers and vessel owners and operators need to have previously attended an in-person workshop. Information about the courses is available online at <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops> and <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops>. To access the course please visit: <https://hmsworkshop.fisheries.noaa.gov/start>.
Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 16, 2026.

David R. Blankinship,

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

[FR Doc. 2026-05265 Filed 3-17-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF574]

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 hybrid meeting of its Whiting Joint Advisory Panel and Plan Development Team (PDT) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-

person with a webinar option. 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 Wednesday April 1, 2026, at 10 a.m. EST Webinar registration URL information: <https://nefmc-org.zoom.us/j/9TJCDHKLmPw>.

ADDRESSES: This meeting will be held at DoubleTree by Hilton, 2081 Post Road, Warwick, RI, 028869; Phone (401) 739–3000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O’Keefe, Ph.D., Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Whiting Advisory Panel and Plan Development Team will meet to discuss preliminary analyses of the small-mesh multispecies fishery in preparation for management action as well as the status and potential application of the Council’s new risk policy to set specifications. They will also discuss small-mesh fishery management issues to be identified by the advisors as well as the possible management measures and alternatives to consider for 2026 and future management actions. 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, Ph.D., 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 16, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–05297 Filed 3–17–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF216]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Alaska Department of Transportation and Public Facilities’ Cold Bay Ferry Terminal Reconstruction Project in Cold Bay, Alaska

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Alaska Department of Transportation and Public Facilities (ADOT&PF) for authorization to take marine mammals incidental to the Cold Bay Ferry Terminal Reconstruction Project in Cold Bay, Alaska.

DATES: This Authorization is effective from May 1, 2028, through April 30, 2029.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

MMPA Background and Determinations

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Among the exceptions is section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) which directs the Secretary of Commerce (as delegated to

NMFS) to allow, upon request, the incidental, but not intentional, taking by harassment 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 the public has an opportunity to comment on the proposed IHA.

Specifically, NMFS will issue an IHA if it finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least [practicable] adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation”). NMFS must also prescribe requirements pertaining to the monitoring and reporting of such takings. The definitions of key terms, such as “take,” “harassment,” and “negligible impact,” can be found in the MMPA and the NMFS’ implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

On December 29, 2025, a notice of NMFS’ proposal to issue an IHA to ADOT&PF for the taking of marine mammals incidental to the Cold Bay Ferry Terminal Reconstruction Project in Cold Bay, Alaska was published in the **Federal Register** (90 FR 60653). In that notice, NMFS indicated the estimated numbers, type, and methods of incidental take proposed for each species or stock, as well as the mitigation, monitoring, and reporting measures that would be required should the IHA be issued. The **Federal Register** notice also included analysis to support NMFS’ preliminary conclusions and determinations that the IHA, if issued, would satisfy the requirements of section 101(a)(5)(D) of the MMPA for issuance of the IHA. The **Federal Register** notice included web links to a draft IHA for review, as well as other supporting documents.

No comments were received during the public comment period. With the exception of the minor changes described below, there are no substantive changes to the specified activity, the species taken, the proposed numbers, type, or methods of take, or the mitigation, monitoring, or reporting measures in the proposed IHA notice. Furthermore, no new information that

would change any of the preliminary analyses, conclusions, or determinations in the proposed IHA notice has become available since that notice was published; therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

Changes From the Proposed IHA to the Final IHA

NMFS made a few minor changes to the IHA based on input received from ADOT&PF during the public comment period. The first included the removal of the word “lead” in IHA measure 4(c) when describing the start-of-shift determination related to the pre-clearance monitoring to ensure that visibility is sufficient for PSO monitoring. As a Lead PSO is not required at all times, the inclusion of this could pose a logistical challenge for the project. With this change, any on-duty PSO can make the appropriate decision for the start of activities, upon completion of the required pre-clearance monitoring period.

The other change was related to an inadvertent inclusion of an incorrect 500-meter (m) (1,640 feet (ft)) shutdown zone for harbor seals (*Phoca vitulina*), specifically during impact pile driving of the 36-inch (in) (91-centimeter (cm)) trestle support piles, the 24-in (61-cm) to 36-in (91-cm) temporary trestle piles, the 36-in (91-cm) dock support pile, the 24-in (61-cm) to 36-in (91-cm) temporary dock piles, and the 36-in (91-cm) dolphin piles. Given the small size and cryptic behavior of this species, individuals may be difficult to see at a distance greater than 300 m (984 ft); therefore, this has been changed to a 300-m (984 ft) shutdown zone for harbor seals in table 2 of the final IHA. This is also in alignment with the shutdown zone for other small species during impact pile driving (*i.e.*, harbor porpoises (*Phocoena phocoena*) and Steller sea lions (*Eumetopias jubatus*)).

Lastly, NMFS corrects a few errors in the total number of takes by Level B harassment for Steller sea lions, harbor porpoises, and harbor seals. The correct value for Steller sea lions should have been 3,465 total estimated exposures, minus 14 takes by Level A harassment, which equates to 3,451 takes by Level B harassment. For harbor porpoises, the correct value should have been 95 takes, given that the original 73 takes by Level A harassment were reduced to 4 and should have been added to the takes by Level B harassment to equal 95 (26 + 69). Similarly for harbor seals, the reduced number of takes by Level A harassment (from 744 to 50) should have been added to the takes by Level

B harassment to equal 2,260 (694 + 1,560). This means that the total percentage of the population/stock expected to be taken now equates to 6.96 percent for Steller sea lions, 0.32 percent for harbor porpoises, and 8.13 percent for harbor seals, all of which are still below NMFS’ threshold for small numbers. We have corrected these in the final IHA and carry them forward here.

None of these minor updates change NMFS’ analysis, the findings, or final determinations, as previously described.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case, with NMFS’ Alaska Regional Office.

There are two ESA-listed marine mammal species, consisting of three stocks, with confirmed occurrence in the project area: the Mexico DPS and Western North Pacific DPS of humpback whales, and the Western DPS of Steller sea lions. NMFS requested consultation under section 7 of the ESA on December 19, 2025. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to ADOT&PF under section

101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of humpback whales (both the Mexico DPS and the Western DPS) and Steller sea lions (Western DPS), and is not likely to destroy or adversely modify critical habitat for this species.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to ADOT&PF for authorization to take marine mammals incidental to the Cold Bay Ferry Terminal Reconstruction Project in Cold Bay, Alaska.

Dated: March 16, 2026.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2026-05283 Filed 3-17-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Admission To Practice and Roster of Registered Patent Attorneys and Agents Admitted To Practice Before the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comments.

SUMMARY: The United States Patent and Trademark Office (hereafter “USPTO” or “Agency”), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0012 (Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office). The purpose of this notice is to allow 60 days for public comments preceding submission of the information collection to the Office of Management and Budget (OMB).

DATES: To ensure consideration, you must submit comments regarding this information collection on or before May 18, 2026.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not

submit Confidential Business Information or otherwise sensitive or protected information.

- **Email:** InformationCollection@uspto.gov. Include “0651-0012 comment” in the subject line of the message.

- **Federal eRulemaking Portal:** <https://www.regulations.gov>.

- **Mail:** Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

- **Telephone:** Diana Oleksa, Office of Enrollment and Discipline, 571-272-4097.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Diana Oleksa at: Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; 571-272-4097; or Diana.Oleksa@uspto.gov with “0651-0012 comment” in the subject line. Additional information about this information collection is also available at <https://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is authorized by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21 and 11.5-11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO, which is accessible through the USPTO website.

This information collection is used by the USPTO to review applications for the examination for registration, and to determine whether an applicant may be added to the Register of Patent Attorneys and Agents. Additionally, it is used to determine whether an applicant may remain on the Register.

Since the previous renewal of this information collection, certain items have been changed and reordered. The USPTO is adding an item (Item 6—Undertaking Under 37 CFR 11.10(b)) to this information collection.

Additionally, the following items have been removed, as they have been declared exempt from the Paperwork Reduction Act by OMB under 5 CFR 1320.3(h)(1), 1320.3(h)(2), and 1320.3(h)(7):

- Registration Examination to Become a Registered Practitioner
- Reasonable Accommodation—PTO 158RA
- Change of Registration from Agent to Attorney—PTO 158
- Written Requests (Certificate of Good Standing, Disciplinary History)

II. Method of Collection

Items in this information collection may be submitted as electronic submissions. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Control Number: 0651-0012.
Forms:

- PTO-107A: (Data Sheet—Register of Patent Attorneys and Agents)
- PTO-107R: (Reinstatement—Data Sheet—Register of Patent Attorneys and Agents)
- PTO-107S: (Registration Statement—Data Sheet—Register of Patent Attorneys and Agents)
- PTO-158: (Application for Registration to Practice Before the United States Patent and Trademark Office)
- PTO-158A: (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident)
- PTO-158T: (Application for Recognition to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Resident)
- PTO-275: (Undertaking Under 37 CFR 11.10(b))
- PTO-1209: (Oath or Declaration)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Individuals or Households.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 11,085 respondents.

Estimated Number of Annual Responses: 11,085 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 5 minutes (0.08 hours) to 45 minutes (0.75 hours) to complete. This includes the time to gather the necessary information, create

the document, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 2,767 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$1,236,849.

TABLE 1—TOTAL HOURLY REPORTING BURDEN FOR INDIVIDUAL OR HOUSEHOLD RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Application for Registration to Practice Before the United States Patent and Trademark Office. Includes: • Former examiners (examination waived) (PTO–158). • Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) (PTO–158A). • 37 CFR 11.14(c) by a Foreign Resident (examination waived) (PTO–158T).	3,293	1	3,293	0.50 (30 minutes)	1,647	\$447	\$736,209
2	Data Sheet—Register of Patent Attorneys and Agents PTO–107A.	1,103	1	1,103	0.50 (30 minutes)	552	447	246,744
3	Registration Statement of Patent Attorneys and Agents PTO–107S.	1	1	1	0.50 (30 minutes)	1	447	447
4	Oath or Affirmation PTO–1209	1,034	1	1,034	0.08 (5 minutes)	83	447	37,101
5	Reinstatement to the Register PTO–107R.	77	1	77	0.08 (5 minutes)	6	447	2,682
6	Undertaking Under 37 CFR 11.10(b) PTO–275.	61	1	61	0.50 (30 minutes)	31	447	13,857
7	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c).	8	1	8	0.75 (45 minutes)	6	447	2,682
8	Petition to USPTO Director under 37 CFR 11.2(d).	1	1	1	0.75 (45 minutes)	1	447	447
	Totals	5,578	.....	5,578	.....	2,327	.....	1,040,169

The USPTO Office of Enrollment and Discipline General Requirements Bulletin recommends that “an applicant should make and keep a copy of every document submitted to the Office in

connection with an application for registration.”² The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the

submissions and that approximately 5,507 responses requiring record keeping (based on the response numbers from Table 1) will be made per year, for a total of 440 hours.

TABLE 2—TOTAL HOURLY RECORDKEEPING BURDEN FOR INDIVIDUAL OR HOUSEHOLD RESPONDENTS

Item No.	Item	Estimated annual respondents (year)	Estimated time for response (hours)	Estimated annual burden (hour/year)	Rate ³ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office.	3,293	0.08	263	\$447	\$117,561
2	Data Sheet—Register of Patent Attorneys and Agents	1,103	0.08	88	447	39,336
4	Oath or Affirmation	1,034	0.08	83	447	37,101
5	Reinstatement to the Register	77	0.08	6	447	2,682
	Totals	5,507	.....	440	.....	196,680

Estimated Total Annual Respondent Non-hourly Cost Burden: \$798,130. There are no capital start-up costs or maintenance costs associated with this

information collection. However, the USPTO estimates that the total annual non-hour cost burden for this

information collection, in the form of filing fees and postage, is \$798,130.

Filing Fees

¹ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–41. The USPTO uses the average billing rate for intellectual property work in

all firms which is \$447 per hour (<https://www.aipla.org/home/news-publications/economic-survey>).

² General Requirements Bulletin for Admission to the Examination for Registration to Practice in

Patent Cases before the United States Patent and Trademark Office; https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf.

³ Ibid footnote in Table 1.

TABLE 3—FILING FEES

Item No.	Fee code	Item	Responses (yr)	Filing fee (\$)	Total non-hour respondent cost burden (\$/hr)
			(a)	(b)	(a) × (b) = (c)
1	9001	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office. Includes: • When used for registration fees only (former examiners; examination waived) • Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) • Under 37 CFR 11.14(c) by a Foreign Resident (examination waived).	3,293	\$118	\$388,574
1	9030	Request for extension of time in which to schedule examination for registration to practice (non-refundable).	764	124	94,736
1	9014	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice).	21	1,806	37,926
3	9003	On Registration to Practice Under 37 CFR 11.6	1,094	226	247,244
3	9026	On Grant of Limited Recognition Under 37 CFR 11.9(b)	36	226	8,136
5	9004	Reinstatement to the Register	77	226	17,402
7	9012	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	8	452	3,616
8	9013	Review of Decision of the Director of Enrollment and Discipline Under 37 CFR 11.2(d)	1	452	452
		Totals	5,294	.....	798,086

Postage

Submissions in this information collection are accepted via email, postal mail, and hand delivery. The USPTO expects that at most 1% of the 5,578 reporting submissions in this information collection will be submitted in the mail through the United States Postal Service, resulting in 56 mailed items. The remaining items will be submitted electronically. The average postage cost for a mailed submission, using a First Class 1-ounce letter envelope, is \$0.78. Therefore, the USPTO estimates that the total mailing costs for this information collection is \$44.

In prior renewals of this information collection, attorneys or agents seeking registration before the USPTO would incur notary costs when they were required to obtain and submit an Oath or Affirmation. The USPTO no longer requires the Oath or Affirmation to be notarized.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be advised that the entire comment—including PII—may be made publicly available at any time. While one may request in a comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2026-05221 Filed 3-17-26; 8:45 am]

BILLING CODE 3510-16-P

COMMODITY FUTURES TRADING COMMISSION

Request for Information on Climate-Related Financial Risk; Withdrawal

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; withdrawal.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is formally withdrawing a request for information published on June 8, 2022, titled “Request for Information on Climate-Related Financial Risk.”

DATES: The Commission is withdrawing the request for information published at 87 FR 34856 (June 8, 2022) as of March 16, 2026.

FOR FURTHER INFORMATION CONTACT:

Mark Fajfar, Senior Assistant General Counsel, 202-418-6636, mfajfar@cftc.gov, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2022, the Commission published a request for information (“RFI”) in the **Federal Register** seeking public responses regarding climate-related financial risk as pertinent to the derivatives markets and underlying commodities markets.¹ The RFI was based on Executive Order 14030 on Climate-Related Financial Risk (E.O. 14030).²

Withdrawal of Request for Information

On January 20, 2025, President Trump signed Executive Order 14154 on Unleashing American Energy which, among other things, revoked E.O. 14030.³ Further, Commission regulations provide a uniform regulatory framework that addresses financial risks.⁴ In view of this revocation and

¹ 87 FR 34856 (June 8, 2022).

² E.O. 14030, 87 FR 27967 (May 20, 2021).

³ E.O. 14154, 90 FR 8353, 8354 (Jan 29, 2025).

⁴ See, e.g., Subpart D (Contracts Not Readily Subject to Manipulation), Subpart E (Prevention of Market Disruption), and Subpart L (Financial Integrity of Transactions) in part 38 of the Commission regulations, 17 CFR part 38 (Designated Contract Markets).

these existing regulations, the Commission is withdrawing the RFI.

Executive Order 12866

The Office of Management and Budget has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

Pursuant to the Congressional Review Act,⁵ the Office of Information and Regulatory Affairs has designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

Issued in Washington, DC, on March 16, 2026, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Climate-Related Financial Risk; Withdrawal of Request for Information—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–05314 Filed 3–17–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–0630]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the USD(A&S) Defense Logistics Agency (DLA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency’s estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on

respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 18, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the *Defense Logistics Agency*, 74 N Washington, Battle Creek, MI 49037, Charles West, 385–591–7788, Charles West, 385–591–7788.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Qualified Transporter List; DLA Form 2503; OMB Control Number 0704–AQTL.

Needs and Uses: Respondents are companies that have entered a contract with the United States (U.S.) Government to dispose of Hazardous Waste and Hazardous Material on behalf of the U.S. Government. These ‘service contracts’ are how the government disposes of hazardous waste/materials. To ensure the protection of human health and the environment, the U.S. Government ‘assesses’ the company’s ability to operate safely and in accordance with regulatory law. In accordance with their signed contract, the contractor will collect the information from the disposal facility they intend to use and provide it to DLA Disposition Services.

The DLA Form 2507 is the single vehicle used to apply with this information. However, the contractor will submit additional information via email (*i.e.*, proof of insurance, disposal permit(s), regulatory inspection results)

to substantiate the validity of the application and the disposal facility in accordance with the disposal contract. The contractor is provided a blank application form in fillable pdf format when the disposal contract is signed. The vetting office will also provide blank copies of the DLA Form 2507 when requested by the contractor. The DLA Form 2507 is used by the vetting office to assist in the vetting process. When completed, the contractor emails the completed DLA Form 2507 application form to DLA Disposition Services Vetting Office for review at TSDFandTransporterInquiries@dla.mil.

The result of the review process by the Vetting is the disposal facility’s addition to the Qualified Facility List (QFL) and authorized use by the disposal contractor. If the facility fails to meet the minimum standards established by DLA Disposition Services, the facility is rejected/disapproved and will not be added to the QFL and the disposal contractor will not be allowed to use the facility for disposal of Hazardous Waste.

Affected Public: Businesses or other for-profit.

Annual Burden Hours: 250.

Number of Respondents: 250.

Responses per Respondent: 1.

Annual Responses: 250.

Average Burden per Response: 1 hour.

Frequency: Annually.

Dated: March 13, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison,
Department of Defense.*

[FR Doc. 2026–05244 Filed 3–17–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–0629]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OUSD(P&R), announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

⁵ 5 U.S.C. 801 *et seq.*

information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 18, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Military Community Advocacy, 4800 Mark Center Drive, Suite 06G18, Alexandria, VA 22350, Dr. Lolita Allen, (571) 256-4371.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Navy New Parent Support Program (NPSP) Evaluation Addendum: Phase II; OMB Control Number 0704-0645.

Needs and Uses: This information collection is necessary to better understand the benefits and limitations of using the Family Needs Screener within Family Advocacy Program's New Parent Support Program NPSP as an intake tool to identify potential risk and protective factors for family violence and services offered by NPSP.

Affected Public: Individuals or households.

Annual Burden Hours: 3,750.

Number of Respondents: 15,000.

Responses per Respondent: 1.

Annual Responses: 15,000.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

Dated: March 13, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-05243 Filed 3-17-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2022-OS-0113]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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:

Reginald Lucas, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Rapid Evaluation of National Guard Connectedness and Relationship Education System First Line Leader Program submitted under "DoD-wide Data Collection and Analysis for the Department of Defense Qualitative and Quantitative Data Collection in Support of the Independent Review Commission on Sexual Assault Recommendations," OMB Control Number 0704-0644.

Type of Request: New.

Number of Respondents: 48.

Responses per Respondent: 1.

Annual Responses: 48.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 36.

Needs and Uses: The Independent Review Commission on Sexual Assault

in the Military recommended that the Department develop a "state-of-the-art DoD prevention research capability" to better understand and develop prevention approaches for sexual harassment, sexual assault, and other forms of violence. This information collection requirement is necessary to understand State leaders' awareness, perspectives, and implementation plans related to the National Guard Connectedness and Relationship Education System First Line Leader (FLL) program rollout. This data collection includes NG State-level leadership personnel from States that have not fully implemented the FLL program. The information from the evaluation efforts will inform future guidance for implementing the FLL program nationwide. This information will help support the development of evidence-based approaches for prevention.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DoD Clearance Officer: Mr. Reginald Lucas.

Dated: March 13, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-05246 Filed 3-17-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2025-OS-0740]

Submission for OMB Review; Comment Request

AGENCY: United States Transportation Command (USTRANSCOM), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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:

Reginald Lucas, (571) 372-7574,
whs.mc-alex.esd.mbx.dd-dod-
information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB
Number: Personal Property Household
 Goods and Unaccompanied Baggage
 Shipment Services, DD Forms 619,
 1412, 1800, 1840, 1863, 2787; OMB
 Number 0704-0531.

Type of Request: Revision.

DD Form 619—Statement of Accessorial Services Performed

Annual Burden Hours: 11,995.2.
Number of Respondents: 833.
Responses per Respondent: 288.
Annual Responses: 239,904.
Average Burden per Response: 3
 minutes.

DD Form 1412—Inventory of Articles Shipped in House Trailer

Annual Burden Hours: 25,267.7.
Number of Respondents: 833.
Responses per Respondent: 364.
Annual Responses: 303,212.
Average Burden per Response: 5
 minutes.

DD Form 1800—Mobile Home Inspection Record

Annual Burden Hours: 25,267.7.
Number of Respondents: 833.
Responses per Respondent: 364.
Annual Responses: 303,212.
Average Burden per Response: 5
 minutes.

DD Form 1840—Joint Statement of Loss or Damage at Delivery

Annual Burden Hours: 25,267.7.
Number of Respondents: 833.
Responses per Respondent: 364.
Annual Responses: 303,212.
Average Burden per Response: 5
 minutes.

DD Form 1863—Accessorial Services—Mobile Homes

Annual Burden Hours: 19,992.
Number of Respondents: 833.
Responses per Respondent: 288.
Annual Responses: 239,904.
Average Burden per Response: 5
 minutes.

DD Form 2787—Certificate of Warehousemen's Legal Liability Insurance

Annual Burden Hours: 25,267.7.
Number of Respondents: 833.
Responses per Respondent: 364.
Annual Responses: 303,212.
Average Burden per Response: 5
 minutes.

Total

Number of Respondents: 833.

Annual Responses: 1,692,656.

Annual Burden Hours: 133,058.

Needs and uses: The forms entailed in this collection are used to collect data to support the private sector commercial Transportation Service Providers (TSP). The TSPs are under contract with the Department of Defense (DoD) for the shipment and storage of personal property for DoD Service Members, DoD Civilians and U.S. Coast Guard.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DoD Clearance Officer: Mr. Reginald Lucas.

Dated: March 13, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 2026-05245 Filed 3-17-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 2206-118]

Duke Energy Progress, LLC; Duke Energy Carolinas, LLC; Notice of Application of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On February 4, 2026, Duke Energy Progress, LLC (transferor) and Duke Energy Carolinas, LLC (transferee) filed an application for a transfer of license for the 115.88-megawatt Yadkin-Pee Dee Hydroelectric Project No. 2206. The project is located on the Pee Dee River in Anson, Montgomery, Richmond, and Stanly counties, North Carolina.

Pursuant to 16 U.S.C. 801, the applicants seek Commission approval to transfer the license for the project from Duke Energy Progress, LLC to Duke Energy Carolinas, LLC. The transferee will be required by the Commission to comply with all the requirements of the license as though it were the original licensee.

Applicants Contact: Jeffrey G. Lineberger, General Manager, Water Strategy, Hydro Licensing, and Lake Services, Duke Energy, 525 S Tryon St. DEP-35B, Charlotte, NC 28202, Phone: (704) 382-5942, Email: *Jeff.lineberger@duke-energy.com*

FERC Contact: Steven Sachs, Phone: (202) 502-8666, Email: *Steven.Sachs@ferc.gov*.

Deadline for filing comments, motions to intervene, and protests: April 13, 2026, 5:00 p.m. Eastern Time. The

Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via 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-2206-118. Comments emailed to Commission staff are not considered part of the Commission record.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or *OPP@ferc.gov*.

(Authority: 18 CFR 2.1)

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-05268 Filed 3-17-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-642-000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing:
 Negotiated Rate Agreements—Various Shippers Apr 2026 to be effective 4/1/2026.

Filed Date: 3/12/26.

Accession Number: 20260312-5129.

Comment Date: 5 p.m. ET 3/24/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-05272 Filed 3-17-26; 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 rate filings:

Docket Numbers: ER25-2654-001.
Applicants: ISO New England Inc., New England Power Pool Participants Committee, Cross-Sound Cable Company, LLC.

Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: Revisions to Schedule 24 to Comply with Order on Compliance & Req. for Waivers to be effective 2/27/2026.

Filed Date: 3/13/26.

Accession Number: 20260313-5188.
Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1470-001.
Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment of Original GIA, Service Agreement No. 7818; AE2-341/AF1-030 to be effective 3/12/2026.

Filed Date: 3/13/26.

Accession Number: 20260313-5082.
Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1736-000.
Applicants: Ohio Power Company.
Description: 205(d) Rate Filing: AEPSC submits Facilities Agreement—SA No. 1336 to be effective 5/14/2026.
Filed Date: 3/13/26.

Accession Number: 20260313-5021.
Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1737-000.
Applicants: American Transmission Systems, Incorporated.

Description: Tariff Amendment: Notice of Cancellation of SA No. 7265 to be effective 5/13/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5024.
Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1742-000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: 205(d) Rate Filing: 2026 Interchange Agreement Annual Filing PART 1 to be effective 1/1/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5056.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1744-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 6317; Queue Position No. AG1-499 to be effective 5/13/2026.
Filed Date: 3/13/26.

Accession Number: 20260313-5072.
Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1748-000.
Applicants: Southern California Edison Company.

Description: 205(d) Rate Filing: SCE WDAT Revision, Att. M—Section 3.6 (Heatmap Reqs Removal 50 Kv & Above) to be effective 5/13/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5085.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1749-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to GIA, Service Agreement No. 7641; AG1-232 to be effective 5/13/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5090.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1751-000.

Applicants: Orange and Rockland Utilities, Inc.

Description: 205(d) Rate Filing: O&R Undergrounding 2026 to be effective 4/1/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5100.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1752-000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 205(d) Rate Filing: 2026 Interchange Agreement Annual Filing PART 2 to be effective 1/1/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5101.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1753-000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 630 to be effective 2/12/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5104.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1754-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original GIA, Service Agreement No. 7929; Project Identifier No. AE1-092 to be effective 2/11/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5106.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1757-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: First Revised GIA, Service Agreement No. 7655; AG1-152/AH1-220 to be effective 2/11/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5125.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1761-000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2026-03-13 Rate Schedule 62 MISO-DEO-PJM CRAF Agreement (Tranche 2.1) to be effective 6/1/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5149.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1762-000.

Applicants: Idaho Power Company.

Description: 205(d) Rate Filing: SA 429—Point-to-Point Transmission Service Agreement between IPC and PAC to be effective 7/1/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5155.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1764-000.

Applicants: Saracen Energy Power Advisors LP.

Description: Tariff Amendment: Cancellation of Market Based Rate Tariff to be effective 3/14/2026.

Filed Date: 3/13/26.
Accession Number: 20260313-5166.

Comment Date: 5 p.m. ET 4/3/26.
Docket Numbers: ER26-1765-000.

Applicants: Duke Energy Ohio, Inc.
Description: 205(d) Rate Filing: DEO–MISO Cost Recovery and Funding Agreement for MTEP PJM Projects RS No. 289 to be effective 6/1/2026.

Filed Date: 3/13/26.

Accession Number: 20260313–5167.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26–1766–000.

Applicants: Saracen Power LP.

Description: Tariff Amendment: Cancellation of Market Based Rate Tariff to be effective 3/14/2026.

Filed Date: 3/13/26.

Accession Number: 20260313–5170.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26–1767–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA No. 6544 and ICSA 6545; Queue No. AB1–087 to be effective 5/13/2026.

Filed Date: 3/13/26.

Accession Number: 20260313–5179.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26–1768–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA No. 6538 and ICSA No. 6539; Queue No. AB1–088 to be effective 5/13/2026.

Filed Date: 3/13/26.

Accession Number: 20260313–5190.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26–1769–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, SA No. 7923; Queue No. AF1–093 to be effective 5/13/2026.

Filed Date: 3/13/26.

Accession Number: 20260313–5191.

Comment Date: 5 p.m. ET 4/3/26.

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, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–05273 Filed 3–17–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 432–145]

Duke Energy Progress, LLC, Duke Energy Carolinas, LLC; Notice of Application of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On February 4, 2026, Duke Energy Progress, LLC (transferor) and Duke Energy Carolinas, LLC (transferee) filed an application for a transfer of license for the 108.6-megawatt Walters Hydroelectric Project No. 432. The project is located on the Pigeon River in Haywood County, North Carolina.

Pursuant to 16 U.S.C. 801, the applicants seek Commission approval to transfer the license for the project from Duke Energy Progress, LLC to Duke Energy Carolinas, LLC. The transferee will be required by the Commission to comply with all the requirements of the license as though it were the original licensee.

Applicants Contact: Jeffrey G. Lineberger, General Manager, Water Strategy, Hydro Licensing, and Lake Services, Duke Energy, 525 S Tryon St. DEP–35B, Charlotte, NC 28202, Phone: (704) 382–5942, Email: Jeff.lineberger@duke-energy.com.

FERC Contact: Steven Sachs, Phone: (202) 502–8666, Email: Steven.Sachs@ferc.gov.

Deadline for filing comments, motions to intervene, and protests: April 13, 2026, 5:00 p.m. Eastern Time. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866)

208–3676 (toll free), or (202) 502–8659 (TTY).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via 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–432–145. Comments emailed to Commission staff are not considered part of the Commission record.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–05269 Filed 3–17–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–17–000]

Commission Information Collection Activity (FERC–549); 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, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comments on the currently approved information collection: FERC–549 (NGPA Section 311 Transactions and NGA Blanket Certificate Transactions). There are no proposed changes to the collection requirements.

DATES: Comments on the collection of information are due May 18, 2026.

ADDRESSES: Please submit comments via email to DataClearance@FERC.gov. You must specify the Docket No. (IC26–17–000) and the FERC Information Collection number (FERC–549) 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, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (including courier) delivery to:* Federal Energy Regulatory 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 may be reached by email at DataClearance@FERC.gov, or by telephone at (202) 502-6468.

SUPPLEMENTARY INFORMATION:

Title: NGPA Section 311 Transactions and NGA Blanket Certificate Transactions.

OMB Control No.: 1902-0086.

Type of Request: Three-year extension of the FERC-549 information collection requirements with no proposed changes to the collection.

Abstract: FERC-549 implements portions of the following statutory provisions: (1) Section 311 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3371); (2) Section 4(f) of the Natural Gas Act (NGA) (15 U.S.C. 717c(f)); and (3) Section 7 of the NGA (15 U.S.C. 717f). The reporting requirements for implementing these provisions are contained in 18 CFR part 284.

Transportation by Interstate Pipelines for Intrastate Pipelines and Local Distribution Companies

Under section 311(a)(1) of the NGPA and 18 CFR 284.101 to .102, any interstate pipeline may transport natural gas without prior Commission approval “on behalf of” an intrastate pipeline or a local distribution company (LDC). The regulation at 18 CFR 284.102(d) provides that the transportation is not “on behalf of” an intrastate pipeline or an LDC unless one of three conditions is met:

(1) The intrastate pipeline or LDC has physical custody of and transports the natural gas at some point; or

(2) The intrastate pipeline or LDC holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the interstate pipeline, for a purpose related to its status and functions as an LDC; or

(3) The gas is delivered at some point to a customer that either is located in an LDC’s service area or is physically able to receive direct deliveries of gas from

an intrastate pipeline, and the LDC or intrastate pipeline certifies that it is on its behalf that the interstate pipeline is providing transportation service.

Before commencing service as described in 18 CFR 284.102(d)(3), the interstate pipeline that is providing the transportation must receive certification from the pertinent LDC or intrastate pipeline consisting of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf, and sufficient information to verify that the service qualifies under 18 CFR 284.102.

Transportation by Intrastate Pipelines for Interstate Pipelines or LDCs Served by an Interstate Pipeline

Under section 311(a)(2) of the NGPA and 18 CFR 284.122 to .123, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of any interstate pipeline or any LDC served by an interstate pipeline. No rate charged for such transportation may exceed a fair and equitable rate.

The regulation at 18 CFR 284.123(b) provides that intrastate gas pipeline companies must file for Commission approval of rates for services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service or file proposed rates and supporting information showing the rates are cost based and are fair and equitable. It is Commission policy that each pipeline must file at least every 5 years to ensure its rates are fair and equitable. Depending on the business process used, either 60 or 150 days after the application is filed, the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

The regulation at 18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates, and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such amendment is to be filed not later than 30 days after commencement of the

change in operations or change in rate election.

Initial Approval of Market-Based Rates for Storage

Section 4(f) of the NGA authorizes the Commission to permit natural gas storage service providers to charge market-based rates for storage, subject to conditions and requirements set forth in the statute. The Commission implements this authority under 18 CFR 284.501 to .505. An applicant may apply for market-based rates by filing a request for a market-power determination that complies with the following:

(a) The applicant must set forth its specific request and adequately demonstrate that it lacks market power in the market to be served, and must include an executive summary of its statement of position and a statement of material facts in addition to its complete statement of position. The statement of material facts must include citation to the supporting statements, exhibits, affidavits, and prepared testimony.

The regulation at 18 CFR 284.503 requires that an application to charge market-based rate for storage services must include the following information:

(1) *Statement A—geographic market.* This statement must describe the geographic markets for storage services in which the applicant seeks to establish that it lacks significant market power. It must include the market related to the service for which it proposes to charge market-based rates. The statement must explain why the applicant’s method for selecting the geographic markets is appropriate.

(2) *Statement B—product market.* This statement must identify the product market or markets for which the applicant seeks to establish that it lacks significant market power. The statement must explain why the particular product definition is appropriate.

(3) *Statement C—the applicant’s facilities and services.* This statement must describe the applicant’s own facilities and services, and those of all parent, subsidiary, or affiliated companies, in the relevant markets identified in Statements A and B in paragraphs (b)(1) and (2) of this section. The statement must include all pertinent data about the storage facilities and services.

(4) *Statement D—competitive alternatives.* This statement must describe available alternatives in competition with the applicant in the relevant markets and other competition constraining the applicant’s rates in those markets. Such proposed alternatives may include an appropriate combination of other storage, local gas

supply, LNG, financial instruments and pipeline capacity. These alternatives must be shown to be reasonably available as a substitute in the area to be served soon enough, at a price low enough, and with a quality high enough to be a reasonable alternative to the applicant's services. Capacity (transportation, storage, LNG, or production) owned or controlled by the applicant and affiliates of the applicant in the relevant market shall be clearly and fully identified and may not be considered as alternatives competing with the applicant. Rather, the capacity of an applicant's affiliates is to be included in the market share calculated for the applicant. To the extent available, the statement must include all pertinent data about storage or other alternatives and other constraining competition.

(5) *Statement E—potential competition.* This statement must describe potential competition in the relevant markets. To the extent available, the statement must include data about the potential competitors, including their costs, and their distance in miles from the applicant's facilities and major consuming markets. This statement must also describe any relevant barriers to entry and the applicant's assessment of whether ease of entry is an effective counter to attempts to exercise market power in the relevant markets.

(6) *Statement F—maps.* This statement must consist of maps showing the applicant's principal facilities, pipelines to which the applicant intends to interconnect and other pipelines within the area to be served, the direction of flow of each line, the location of the alternatives to the applicant's service offerings, including their distance in miles from the applicant's facility. The statement must include a general system map and maps by geographic markets. The information required by this statement may be on separate pages.

(7) *Statement G—market-power measures.* This statement must set forth the calculation of the market concentration of the relevant markets using the Herfindahl-Hirschman Index. The statement must also set forth the applicant's market share, inclusive of affiliated service offerings, in the markets to be served. The statement must also set forth the calculation of other market-power measures relied on by the applicant. The statement must include complete particulars about the applicant's calculations.

(8) *Statement H—other factors.* This statement must describe any other factors that bear on the issue of whether the applicant lacks significant market power in the relevant markets. The description must explain why those other factors are pertinent.

(9) *Statement I—prepared testimony.* This statement must include the proposed testimony in support of the application and will serve as the applicant's case-in-chief, if the Commission sets the application for hearing. The proposed witness must subscribe to the testimony and swear that all statements of fact contained in the proposed testimony are true and correct to the best of his or her knowledge, information, and belief.

The regulation at 18 CFR 284.505(a), requires: (1) a demonstration that market-based rates are in the public interest and necessary to encourage the construction of storage capacity in an area needing storage services, and (2) an explanation of what means the storage service provider will use to protect customers from the potential exercise of market power.

Market Based-Rates—Notice of Change in Circumstances

The Commission's regulations at 18 CFR 284.504(b) provide that a storage service provider granted the authority to charge market-based rates is required to notify the Commission within 10 days of acquiring knowledge of significant change occurring in its market power status. The notification should include a detailed description of the new facilities/services and their relationship to the storage service provider. Significant changes include: (1) The storage provider expanding its storage capacity beyond the amount authorized; (2) The storage provider acquiring transportation facilities or additional storage capacity; (3) An affiliate providing storage or transportation services in the same market area; and (4) The storage provider or an affiliate acquiring an interest in or is acquired by an interstate pipeline.

Code of Conduct Record Retention

The Commission's regulations at 18 CFR 284.288(b) and 18 CFR 284.403(b), respectively, impose a record retention requirement contained in a Code of Conduct applicable to: (1) interstate pipelines that provide unbundled natural gas sales service,¹ and (2) persons who are not interstate pipelines

and whose sales of natural gas are authorized by the "automatic" blanket marketing certificate granted by operation of 18 CFR 284.402.² Any entity fitting one of those descriptions must retain, for a period of five years, all data and information upon which it billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices.

FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of 5 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 necessary to ensure consistency with 18 CFR 1c.1 (Prohibition of Natural Gas Market Manipulation) and the generally applicable five-year 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.

Failure to have this information available would mean the Commission would have difficulty performing its regulatory functions to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders. The Code of Conduct Record Retention burden³ associated with the FERC-549 includes labor costs.

Type of Respondents: Jurisdictional interstate and intrastate natural gas pipelines.

*Estimate of Annual Burden:*⁴ The Commission estimates the annual burden and labor costs for the information collection as follows:

² The regulation at 18 CFR 284.402(a) provides that any person who is not an interstate pipeline is granted a blanket certificate of public convenience and necessity, pursuant to section 7 of the NGA, that authorizes the certificate holder to make sales for resale of natural gas at negotiated rates in interstate commerce. Section 2(1) of the NGA (15 U.S.C. 717a(1)) defines a "person" to include an individual or corporation.

³ 18 CFR 284.288(b) and 18 CFR 284.403(b).

⁴ 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.

¹ As defined at 18 CFR 284.282(c), unbundled sales service is gas sales service that is sold separately from transportation service.

	Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost ⁵ per response (\$)	Total annual burden hours & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) × (2) = (3)	(4)	(3) × (4) = (5)	(5) ÷ (1) = (6)
Transportation by Interstate Pipelines and Rates and Charges for Intrastate Pipelines ⁶	61	2	122	50 hrs.; \$5,100	6,100 hrs.; \$622,200	\$10,200
MBR—Initial Approval ⁷	4	1	4	350 hrs.; \$35,700	1,400 hrs.; \$142,800	35,700
MBR—Change in Circumstances ⁸	4	1	4	75 hrs.; \$7,650	300 hrs.; \$30,600	7,650
Record Retention	176	1	176	1 hr.; \$29.36	176 hrs.; \$5,167	29.36
Totals	245		306		7,976 hrs.; \$800,767	

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.

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-05270 Filed 3-17-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25-551-000]

Great Basin Gas Transmission Company; Notice of Availability of the Environmental Assessment for the Proposed Gabbs Lateral NASF Relocation Project

The staff of the Federal Energy
Regulatory Commission (FERC or

Commission) has prepared an environmental assessment (EA) for the Gabbs Lateral Naval Air Station Fallon (NASF) Relocation Project (Project), proposed by Great Basin Gas Transmission Company (Great Basin) in the above-referenced docket.¹ Great Basin requests authorization to relocate a portion of its existing Gabbs Lateral pipeline in Mineral and Nye Counties, Nevada due to planned expansion of the NASF training range complex. Great Basin would install approximately 32.6 miles of pipeline and abandon approximately 21.2 miles of pipeline. The Project would not provide any incremental capacity.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on April 13, 2026. Instructions for filing comments are provided on page 3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential environmental effects of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA)² and the Commission's implementing regulations.³ The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the

environmental review process. The EA concludes that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

The Bureau of Land Management (BLM) and the United States Navy (Navy) participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The BLM will adopt and use the EA to consider the issuance of a right-of-way grant for the project on federal lands. Although the cooperating agencies provided input to the conclusions and recommendations presented in the EA, the agencies will present their own conclusions and recommendations in their respective Record of Decision for the project.

The EA addresses the potential environmental effects of the construction, abandonment, and operation of the following project facilities:

- construction of about 32.6 miles of new 8-inch-diameter (18.8 miles) and 6-inch-diameter (13.8 miles) pipeline;
- abandonment in-place and by removal of about 21.2 miles of 8-inch-diameter (5.4 miles) and 6-inch-diameter (15.8 miles) pipeline on Great Basin's Gabbs Lateral;
- relocation of the Scheelite rectifier (part of the cathodic protection system) from the pipeline right-of-way to be abandoned to the existing right-of-way;
- replacement of a thermoelectric generator (TEG) with a natural gas burning generator at the Gabbs Valley ground bed for the cathodic protection system; and
- installation of two aboveground valve assemblies.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups;

⁵ FERC estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2026 FERC average annual salary plus benefits (\$213,003 year or \$102/hour). The exception is for the Record Retention line of \$29.36 hourly, which comes from the average cost (wages plus benefits) of a file clerk (Occupation Code 43-4071) as posted on the BLS website (http://www.bls.gov/oes/current/naics2_22.htm).

⁶ The entities affected by 18 CFR 284.123(b) and (e) are intrastate pipelines. Interstate and intrastate pipelines are affected by 18 CFR 284.102(e). Since 2016, the Commission has not received any filings under 18 CFR 284.102(e).

⁷ 18 CFR 284.501 to .505.

⁸ 18 CFR 284.501 to .505. This new row was added to account for the differences between initial MBR filings and MBR filings pertaining to a change in circumstances.

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1762338293.

² National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91-190, 42 U.S.C. 4321-4347, as amended by Pub. L. 94-52, July 3, 1975; Pub. L. 94-83, August 9, 1975; Pub. L. 97-258, 4(b), September 13, 1982; Pub. L. 118-5, June 3, 2023; Pub. L. 119-21, July 4, 2025).

³ 18 Code of Federal Regulations (CFR) 380.

and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the natural gas environmental documents page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://elibrary.ferc.gov/eLibrary/search>), select "General Search" and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.* CP25–551). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. Section 7(b) of the NGA specifies that no natural gas company shall abandon any portion of its facilities subject to the Commission's jurisdiction without the Commission first finding that the abandonment will not negatively affect the present or future public convenience and necessity. The Commission bases its decisions on both economic issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (www.ferc.gov) under the link to FERC Online. This is an easy method for

submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP25–551–000) on your letter. 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.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at <https://www.ferc.gov/how-intervene>.

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. Additional information about the project is available from the FERC website (www.ferc.gov) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with

notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

(Authority: 18 CFR 2.1)

Dated: March 13, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–05271 Filed 3–17–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 2, 2026.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments

can also be sent electronically to KCAApplicationComments@kc.frb.org:

1. *Robert Beymer, as trustee of Diane Beymer Credit Shelter Trust and Robert Beymer Revocable Trust dtd 02/24/2022, all of Garden City, Kansas*; to retain voting shares of Lakin Bancshares, Inc., and thereby indirectly retain voting shares of KCB Bank, both of Lakin, Kansas.

B. *Federal Reserve Bank of Minneapolis* (Mark Nagle, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to MA@mpls.frb.org:

1. *The Maya J. Smith Irrevocable Trust dated 12/14/2022 and the Zoie M. Smith Irrevocable Trust dated 12/14/2022 (together, the “Trusts”)*; to join the Bauer Family Shareholder Group, a group acting in concert, to retain voting shares of Security Financial Services Corporation, and thereby indirectly retain voting shares of Security Financial Bank, both of Durand, Wisconsin. Tad M. Bauer, the trustee of the Trusts, was previously approved by the Federal Reserve System to join the Bauer Family Shareholder Group in his individual capacity.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–05318 Filed 3–17–26; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

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

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board’s

Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 17, 2026.

A. *Federal Reserve Bank of Dallas* (Lindsey Wieck, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201–2272. Comments can also be sent electronically to Comments.applications@dal.frb.org:

1. *A.N.B. Holding Company, Ltd., Terrell, Texas*; to acquire additional voting shares, up to 39 percent, of The ANB Corporation, and thereby indirectly acquire additional voting shares of The American National Bank of Texas, both of Terrell, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–05317 Filed 3–17–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2019–0093, NIOSH–156–E]

Request for Public Comment on the Draft Immediately Dangerous to Life or Health (IDLH) Value Document for Lewisite

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) in the Centers for Disease Control and Prevention (CDC), an

Operating Division of the Department of Health and Human Services (HHS), requests public comment on the draft Immediately Dangerous to Life or Health (IDLH) Value Profile document for the chemical lewisite (CAS# 541–25–3). NIOSH develops IDLH values for workplace chemical concentrations and conditions carrying immediate, unacceptable health risks. IDLH values are based on health effects considerations determined through a critical assessment of toxicology and human health effects data.

DATES: Electronic or written comments must be received by May 18, 2026.

ADDRESSES: You may submit comments, identified by docket number CDC–2019–0093 and docket number NIOSH–156–E, by either of the following methods:

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

- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2019–0093; NIOSH–156–E). All relevant comments, including any personal information provided, will be posted without change to <https://www.regulations.gov>. Do not submit comments by email. CDC does not accept comments by email. For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: R. Todd Niemeier, Ph.D., National Institute for Occupational Safety and Health, MS–C15, 1090 Tusculum Avenue, Cincinnati, OH 45226. Telephone: (513) 533–8166.

SUPPLEMENTARY INFORMATION: NIOSH is requesting public comment on a draft IDLH Value Profile document for the chemical lewisite. Lewisite is an oily substance that actively produces gas in room temperature air and was developed as a blister agent during World War I. NIOSH developed the draft IDLH Value Profile document to provide the scientific rationale behind the derivation of an IDLH value for lewisite. It provides a detailed summary of the health hazards of acute exposures to high airborne concentrations of lewisite and the rationale for the IDLH value. The final publication, which will address public comments, will be available on the NIOSH website and in the NIOSH docket 156–E and in *Regulations.gov* CDC–2019–0093.

To facilitate the review of this document, NIOSH requests comment on the following specific questions for this draft Profile document:

1. Does this document clearly outline the health hazards associated with acute (or short-term) exposures to lewisite? If not, what specific information is missing from the document?

2. Are the rationale and logic behind the derivation of an IDLH value for lewisite clearly explained? If not, what specific information is needed to clarify the basis of the IDLH value?

3. Are the conclusions supported by the data?

4. Are the tables clear and appropriate?

5. Is the document organized appropriately? If not, what improvements are needed?

6. Are you aware of any additional scientific data reported in government publications, databases, peer-reviewed journals, or other sources that should be considered in this document?

Background: NIOSH develops IDLH values for workplace chemical concentrations and conditions carrying immediate, unacceptable health risks. Since the establishment of the IDLH values in the 1970s, NIOSH continues to review available scientific data to improve the protocol used to derive acute exposure guidelines, in addition to the chemical-specific IDLH values. IDLH values are based on health effects considerations determined through a critical assessment of toxicology and human health effects data. This approach ensures that the IDLH values reflect an airborne concentration of a substance that represents a high-risk situation that may endanger workers' lives or health.

In 2013, NIOSH published Current Intelligence Bulletin (CIB) 66: Derivation of Immediately Dangerous to Life or Health (IDLH) Values [<http://www.cdc.gov/niosh/docs/2014-100/pdfs/2014-100.pdf>] [NIOSH 2013]. The information presented in this CIB represents the most recent update of the scientific rationale and the methodology (hereby referred to as the IDLH methodology) used to derive IDLH values. The primary steps used to establish an IDLH value are the following:

1. Critical review of human and animal toxicity data to identify potentially relevant studies and characterize the various lines of evidence that can support the derivation of the IDLH value;

2. Determination of a chemical's mode of action or description of how a chemical exerts its toxic effects;

3. Application of duration adjustments (time scaling) to determine 30-minute-equivalent exposure concentrations and the conduct of other dosimetry adjustments, as needed;

4. Experimental or other data to establish a point of departure (POD) such as lethal concentrations (*e.g.*, LC50), lowest observed adverse effect level (LOAEL), or no observed adverse effect level (NOAEL);

5. Selection and application of an uncertainty factor (UF) for POD or critical adverse effect concentration, identified from the available studies to account for issues associated with interspecies and intraspecies differences, severity of the observed effects, data quality, or data insufficiencies; and

6. Development of the final recommendation for the IDLH value from the various alternative lines of evidence, with use of a weight-of-evidence approach to all the data.

Reference

NIOSH [2013]. Current intelligence bulletin 66: derivation of immediately dangerous to life or health (IDLH) values. Cincinnati, OH: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication 2014-100.

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2026-05288 Filed 3-17-26; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10507]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of

information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by April 17, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is

publishing this notice that summarizes the following proposed collection(s) of information for public comment.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved information collection; *Title of Information Collection:* State-based Exchange Annual Reporting Tool (SMART); *Use:* The ACA § 1313(a)(1) and its implementing regulations require State Exchanges to keep an accurate accounting of all activities, receipts, and expenditures, and to submit a report annually to CMS concerning such accounting. Instructions governing specific facets of the activities covered by the report are contained both in the ACA and 45 CFR 155.1200, 155.1210. CMS uses the SMART as the reporting tool to ensure compliance with regulatory requirements.

CMS uses the information collected from the SMART to determine if a state is maintaining a compliant, operational Exchange. It also provides a mechanism to collect innovative approaches to meeting challenges encountered by states during the preceding year, as well as to provide information to CMS regarding potential changes in priorities and approaches for the upcoming year. If CMS determines a state to be non-compliant through the review of required documentation, it will issue a formal letter asking the state to develop and submit a Corrective Action Plan (CAP). CMS may also provide technical assistance to help State Exchanges address potential areas of non-compliance, as needed. *Form Number:* CMS-10507 (OMB control number: 0938-1244); *Frequency:* Annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 23; *Number of Responses:* 23; *Total Annual Hours:* 4,792. (For questions regarding this collection, contact Tiffany Y. Animashaun at Tiffany.Animashaun@cms.hhs.gov.)

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-05218 Filed 3-17-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10394 and CMS-10544]

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 18, 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 Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application To Be a Qualified Entity To Receive Medicare Data for Performance Measurement/Reapplication/Annual Report Worksheet; *Use:* Section 10332 of the Patient Protection and Affordable Care Act (ACA) requires the Secretary to make standardized extracts of Medicare claims data under Parts A, B, and D available to "qualified entities" (QEs) for evaluating performance of providers of services and suppliers, implement the requirements outlined in the legislation, CMS established the Qualified Entity Certification Program (QECP) to evaluate an organization's eligibility across three areas: (1) organizational and governance capabilities, (2) addition of claims data from other sources (as

required in the statute), and (3) data privacy and security.

This collection covers the application through which organizations provide information to CMS to determine whether they will be approved as a qualified entity. This collection also covers the triennial re-application through which organizations provide information to CMS to determine whether they are approved to continue as a qualified entity and the QECF Annual Report Worksheet (ARW). *Form Number:* CMS-10394 (OMB control number: 0938-1144); *Frequency:* Yearly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 40; *Total Annual Responses:* 70; *Total Annual Hours:* 5,800. (For policy questions regarding this collection contact Kari Gaare at kari.gaare@cms.hhs.gov.)

2. *Type of Information Collection Request:* Re-instatement without change of a previously approved collection; *Title of Information Collection:* Good Cause Processes; *Use:* Section 1851(g)(3)(B)(i) of the Act provides that MA organizations may terminate the enrollment of individuals who fail to pay basic and supplemental premiums after a grace period established by the plan. Section 1860D-1(b)(1)(B)(v) of the Act generally directs us to establish rules related to enrollment, disenrollment, and termination for Part D plan sponsors that are similar to those established for MA organizations under section 1851 of the Act. Consistent with these sections of the Act, subpart B in each of the Parts C and D regulations sets forth requirements with respect to involuntary disenrollment procedures at 42 CFR 422.74 and 423.44, respectively. In addition, section 1876(c)(3)(B) establishes that individuals may be disenrolled from coverage as specified in regulations.

These good cause provisions authorize CMS to reinstate a disenrolled individual's enrollment without interruption in coverage if the non-payment is due to circumstances that the individual could not reasonably foresee or could not control, such as an unexpected hospitalization. At its inception, the process of accepting, reviewing, and processing beneficiary requests for reinstatement for good cause was carried out exclusively by CMS. *Form Number:* CMS-10544 (OMB control number: 0938-1271); *Frequency:* Occasionally; *Affected Public:* Individuals and Households, Private Sector and Business or other for-profits; *Number of Respondents:* 54,789; *Total Annual Responses:* 54,789; *Total Annual Hours:* 36,490. (For policy questions regarding this collection

contact AnhViet Nguyen at 667-290-9745 or anhviet.nguyen@cms.hhs.gov.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-05217 Filed 3-17-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-2279]

Preparation for International Cooperation on Cosmetics Regulation Twentieth Annual Meeting (ICCR-20); Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is soliciting comments from the public on various topics pertaining to the regulation of cosmetics in preparation for the twentieth International Cooperation on Cosmetics Regulation annual meeting (ICCR-20). We may use this input to help us prepare for the ICCR-20 meeting that will be held July 7 to 9, 2026, in Tokyo, Japan.

DATES: Either electronic or written comments on this notice must be submitted by May 18, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 18, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted,

such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-2279 for "Preparation for International Cooperation on Cosmetics Regulation Twentieth Annual Meeting (ICCR-20); Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly

available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Deborah Smegal, Office of Cosmetics and Colors, Office of the Chief Scientist, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-1818, Deborah.Smegal@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The intention of the International Cooperation on Cosmetics Regulation (ICCR) multilateral framework is to pave the way for the removal of regulatory obstacles to international trade while maintaining global consumer protection. FDA is soliciting comments from the public on various topics pertaining to the regulation of cosmetics. We may use this input to help us prepare for the twentieth ICCR annual meeting (ICCR–20) that will be held July 7 to 9, 2026, in Tokyo, Japan.

ICCR is a voluntary international group of cosmetics regulatory authorities, including the United States. These regulatory authority members will engage in dialogue with their relevant cosmetics industry trade associations and other interested parties. The current ICCR members can be found at: <https://www.iccr-cosmetics.org/>. The ICCR generally operates on a consensus-based decision-making process (see <https://www.iccr-cosmetics.org/topics-documents/4-iccr-governance>). All decisions will be compatible with the laws, policies, rules, regulations, and directives of the respective administrations and governments of the ICCR members. Members will implement and/or promote actions or documents within

their own jurisdictions and seek convergence of regulatory policies and practices. Successful implementation will need input from interested parties.

ICCR considers various topics of common interest and relevance for cosmetics (see <https://www.iccr-cosmetics.org/topics-documents>).

II. Request for Comments

FDA is requesting public comment on the following questions related to topics identified for the ICCR–20 meeting.¹ FDA is also requesting public comment on any additional cosmetics topics of interest for consideration by ICCR for future work.

1. What new International Organization for Standardization (ISO) standards and technical reports should be considered for inclusion in the Updated Annex of International Standards in Cosmetics Report (Ref. 1)?

2. What new non-animal testing methods should be considered for inclusion in the Inventory of Validated Non-Animal Testing Methods Applicable for Cosmetic Products and their Ingredients in all ICCR Regions (Ref. 2)?

3. What are your suggestions to help make risk assessment using non-animal data a more common approach for safety assessments of cosmetic ingredients?

4. What general principles should be considered for electronic labeling (e-labeling) and digital information for cosmetics across ICCR member jurisdictions?

5. What are common questions and misconceptions and ways to improve understanding related to cosmetics use, safety, and regulation that arise across ICCR member jurisdictions?

6. What are your suggestions for any changes to or considerations for ICCR’s purpose, mission, and future direction?

III. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. ICCR, “Updated Annex of International Standards in Cosmetics Report.” 2025. Accessed March 4, 2026. Available at:

¹ Topics for the ICCR–20 meeting were identified at the ICCR–19 meeting held on July 8 to 10, 2025, in Ottawa, Ontario, Canada. Outcomes of the ICCR–19 meeting are available at <https://www.iccr-cosmetics.org/component/attachments/attachments?id=175&task=download>.

<https://www.iccr-cosmetics.org/component/attachments/?task=download&id=181>.

2. ICCR, “Inventory of Validated Non-Animal Testing Methods Applicable for Cosmetic Products and their Ingredients in all ICCR Regions.” 2025. Accessed March 4, 2026. Available at: <https://www.iccr-cosmetics.org/downloads/topics/2025-updated%20annex%20of%20validated%20non-animal%20testing%20methods%20applicable%20for%20cosmetics.pdf>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05280 Filed 3–17–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–0008]

Advisory Committee; Obstetrics, Reproductive and Urologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Obstetrics, Reproductive and Urologic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Obstetrics, Reproductive and Urologic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the March 23, 2028, expiration date.

DATES: Authority for the Obstetrics, Reproductive and Urologic Drugs Advisory Committee will expire on March 23, 2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Advisory Committee Oversight and Management Staff, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, (301) 796–7973, ACOMSSubmissions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 21 CFR 14.40(b) and 41 CFR 102–3.65, and following approval by the Department of Health and Human Services and review by the General Services Administration, FDA is

announcing the renewal of the Obstetrics, Reproductive and Urologic Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drug products for use in the practice of obstetrics, gynecology, urology and related specialties, and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of at least six voting members including the Chair. Subject to legal and regulatory requirements, members and the Chair are selected by and serve at the discretion of the Commissioner or designee. Each member, including the Chair, will be selected from among authorities knowledgeable in the fields of obstetrics, gynecology, urology, epidemiology, or statistics and related specialties.

Members may be invited to serve for terms of up to four years, or for less time in the discretion of the Commissioner or designee. Non-Federal members of this committee will serve as Special Government Employees or representatives. Federal members will serve as Regular Government Employees or Ex-Officios.

In addition to the voting members, the Commissioner or designee may identify consumer and/or industry representatives to join the Committee (or serve as alternate representatives) as non-voting representative member(s), via a process consistent with legal and regulatory requirements. Individuals currently employed at FDA-regulated companies, such as pharmaceutical and medical device manufacturers, shall not be selected to serve as members of the Committee unless this Committee is expected to address issues for which inclusion of an industry representative is required by statute. If this Committee includes an industry representative, the Commissioner or designee will determine whether to invite them to participate in meetings on a case-by-case basis, according to applicable legal and regulatory requirements.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees to serve temporarily as voting members and to

designate Special Government Employees to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking.

A quorum for the Committee is a majority of the current voting members present at the time, provided that FDA may specify a quorum that is less than a majority of the current voting members because of the size of the Committee and the variety in the types of issues that it will consider, or other reason determined appropriate in accordance with legal and regulatory requirements. 21 CFR 14.22(d).

Members appointed to an advisory committee serve for the duration of the committee, or until their terms expire, they resign, or they are removed from membership by the Commissioner or designee. Committee members' terms may be ended prior to their date of expiration, for reasons determined to be good cause. Good cause includes excessive absenteeism from committee meetings, a demonstrated bias that interferes with the ability to render objective advice, failure to abide by established procedures, or violation of other applicable rules and regulations.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/human-drug-advisory-committees/obstetrics-reproductive-and-urologic-drugs-advisory-committee-formerly-bone-reproductive-and> or by contacting the Advisory Committee Oversight and Management Staff (see **FOR FURTHER INFORMATION CONTACT**). Because the committee's name and description of duties remain unchanged, 21 CFR 14.100 will not be amended.

Renewal Requirements and Justification: The Commissioner has determined that renewal of the Obstetrics, Reproductive and Urologic Drugs Advisory Committee is in the public interest. This determination is based on the Committee's essential role in providing independent expert advice on complex scientific and regulatory matters related to obstetrics, gynecology, urology and related specialties, the continued need for specialized expertise in this therapeutic area, and the Committee's demonstrated value in supporting FDA's regulatory mission. The following information supports this

determination in accordance with applicable legal and regulatory requirements.

Public Interest Determination

FDA estimates the following annual operating costs and staff years associated with this committee.

(1) *Annual budget and expected costs:* \$88,775.

(i) *Federal personnel (based on full-time equivalent (FTE) usage basis) and other Federal internal costs.*

The estimated person years of Federal staff support required is 0.25 at an estimated annual cost of \$50,739.

(ii) *Proposed payments to members and number of members; and*

The estimated annual payment to members is \$9,212 for twelve (12) committee members.¹

(iii) *Reimbursable costs.*

The estimated annual reimbursable costs, including travel and related expenses for members, is \$16,140.

(2) *If applicable, the total dollar value of grants expected to be recommended during the fiscal year.*

N/A.

(3) *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership.*

Ensuring Necessary Expertise

Members must have background, education, and experience commensurate with the committee's function of advising FDA on the existing and relevant evidence of benefits and risks of marketed and investigational human drug products for use in the practice of obstetrics, gynecology, urology and related specialties. Scientific and technical competence is critical. Nominees should be acknowledged experts with demonstrated skills in critical evaluation of data and effective communication. As outlined in the committee charter, the membership should include authorities knowledgeable in the fields of obstetrics, gynecology, urology, epidemiology, or statistics and related specialties, as well as needed consumer and industry representation. FDA also follows the requirements in section 505(n)(3) regarding membership of drug product advisory committees. (21 U.S.C. 355(n)(3)).

¹ This number of committee members is an estimate that includes potential additional temporary voting members who may participate in specific advisory committee meetings.

Ensuring Fair Balance

Appointments are made without discrimination. The committee is reviewed in totality for balance, characterized by inclusion of necessary knowledge, insight, and scientific perspective from the relevant community or expertise area. Nominations are sought from all geographic locations within the United States and its territories, and from diverse sources including professional and scientific societies, academia, government agencies, industry and trade associations, consumer and patient organizations, and current Agency staff.

Selection Process

A **Federal Register** Notice is published annually soliciting nominations for vacancies. Agency Designated Federal Officers and Office/Division Directors review and evaluate prospective members for competence and suitability. Anyone may nominate an individual, including themselves, for committee membership.

(4) *List of all other Federal advisory committees of the agency.*

FDA maintains the following Federal advisory committees:

- Anesthetic and Analgesic Drug Products Advisory Committee
- Antimicrobial Drugs Advisory Committee
- Blood Products Advisory Committee
- Cardiovascular and Renal Drugs Advisory Committee
- Cellular Tissue and Gene Therapies Advisory Committee
- Dermatologic and Ophthalmic Drugs Advisory Committee
- Device Good Manufacturing Practice Advisory Committee
- Digital Health Advisory Committee
- Drug Safety and Risk Management Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Gastrointestinal Drugs Advisory Committee
- Genetic and Metabolic Disease Advisory Committee
- Medical Devices Advisory Committee
- National Mammography Quality Assurance Advisory Committee (Administratively Inactive)
- Nonprescription Drugs Advisory Committee
- Oncologic Drugs Advisory Committee
- Patient Engagement Advisory Committee
- Pediatrics Advisory Committee
- Peripheral and Central Nervous System Advisory Committee
- Pharmacy Compounding Advisory Committee
- Pharmacy Compounding Drugs AC

- Psychopharmacologic Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee
- Risk Communication Advisory Committee (Administratively Inactive)
- Science Board to the Food and Drug Administration
- Technical and Electronic Products Safety Standards Advisory Committee
- Tobacco Products Scientific Advisory Committee

(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 Obstetrics, Reproductive and Urologic Drugs Advisory Committee provides independent expert advice to FDA on the safety and effectiveness of marketed and investigational human drug products for use in the practice of obstetrics, gynecology, urology and related specialties.

The topics considered by the Obstetrics, Reproductive and Urologic Drugs Advisory Committee require specialized expertise in the practice of obstetrics, gynecology, urology and related specialties that is not within the primary scope of other FDA advisory committees. Potential topics that may need committee input include products related to the topics outlined in Section (6) below. These and other issues cannot be appropriately addressed by another standing committee without diminishing the depth and relevance of the expert input provided to the Agency.

(6) *If the justification relates to a renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue.*

Summary of Previous Accomplishments

In 2022, the committee discussed the Makena (hydroxyprogesterone caproate injection) application. Approved in 2011 under accelerated approval, Makena was the only drug product approved to reduce the risk of recurrent preterm birth in women with a singleton pregnancy who have a history of singleton spontaneous preterm birth. As a condition of Makena's approval, the applicant was required to conduct a confirmatory clinical trial ("the PROLONG" trial) to verify and describe the predicted clinical benefit to newborns. The committee discussed whether the PROLONG trial verified the clinical benefit of Makena and whether available evidence demonstrated that Makena was effective for its approved

indication. The Committee discussed whether FDA should allow Makena to remain on the market while an appropriate confirmatory study was being designed. Their recommendations informed FDA's decision to withdraw approval for Makena in 2023.

Patients benefit from this committee's review and evaluation of obstetrics, reproductive and urologic drugs. Topics on which FDA may seek input from this committee include the following:

- Contraception and family planning
- Treatment for endometriosis and adenomyosis
- Treatment of menstrual disorders
- Prevention of preterm birth
- Female and male infertility
- Female and male sexual dysfunction
- Testosterone for hypogonadism in men
- Lactation disorders
- Treatment of menopausal symptoms
- Medical treatment of cervical dysplasia associated with human papilloma virus infection
- Treatment of preeclampsia
- Bladder pain disorders
- Overactive bladder disorders
- Treatment of benign prostate disease

(7) *Explanation of why the committee/subcommittee is essential to the conduct of agency business.*

Reasons for Continuation

The committee plays a critical role in enabling FDA to meet the requirements of sections 505(n)(1) and (s)(1) of the Federal Food, Drug, and Cosmetic Act by providing expert scientific advice and recommendations. Without the Obstetrics, Reproductive and Urologic Drugs Advisory Committee, FDA's ability to obtain external expert input on issues related to the approval and regulation of the safety and effectiveness of marketed and investigational human drug products for use in the practice of obstetrics, gynecology, urology and related specialties would be significantly limited.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

This notice is issued under the Federal Advisory Committee Act as amended (5 U.S.C. 1001 *et seq.*). For general information related to FDA advisory committees, please visit us at

<http://www.fda.gov/AdvisoryCommittees/default.htm>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05313 Filed 3–17–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–2362]

Over-the-Counter Monograph Drug Facility Fee Rates for Fiscal Year 2026

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Over-the-Counter Monograph Drug User Fee Amendments (herein referred to as “OMUFA II”), authorizes the Food and Drug Administration (FDA, the Agency, or we) to assess and collect user fees from qualifying manufacturers of over-the-counter (OTC) monograph drugs and submitters of OTC monograph order requests (OMORs) for fiscal years 2026 through 2030. This notice publishes the OTC monograph drug facility (MDF) fee rates for fiscal year (FY) 2026.

DATES: These facility fees are effective on October 1, 2025, and will remain in effect through September 30, 2026.

FOR FURTHER INFORMATION CONTACT: Olufunmilayo Ariyo, Office of Financial Management, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 240–402–4989; or the User Fees Support Staff at OO-OFBA-OFM-UFSS-Government@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 744M of the FD&C Act (21 U.S.C. 379j–72), as amended by OMUFA II,¹ authorizes FDA to assess and collect, for each of fiscal years 2026 through 2030: (1) facility fees from qualifying owners of OTC MDFs and (2) fees from submitters of qualifying OMORs. The OMOR fee rates for FY 2026 were published on December 29, 2025.²

¹ Over-the-Counter Monograph Drug User Fee Amendments, title V of Division F of the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026 (Pub. L. 119–37).

² <https://www.federalregister.gov/documents/2025/12/29/2025-23852/over-the-counter-monograph-drug-user-fee-amendments-otc-monograph-order-request-fee-rates-for-fiscal>.

These fees are to support FDA’s OTC monograph drug activities, which are detailed in section 744L(6) of the FD&C Act (21 U.S.C. 379j–71(6)) and include specified FDA activities associated with OTC monograph drugs. For OMUFA purposes:

- An OTC monograph drug is a nonprescription drug without an approved new drug application that is governed by the provisions of section 505G of the FD&C Act (21 U.S.C. 355h) (see section 744L(5) of the FD&C Act);
- An OTC MDF is a foreign or domestic business or other entity that, in addition to meeting other criteria, is engaged in manufacturing or processing the finished dosage form of an OTC monograph drug (see section 744L(10) of the FD&C Act); and
- A contract manufacturing organization (CMO) facility is an OTC monograph drug facility where neither the owner nor any affiliate of the owner or facility sells the OTC monograph drug produced at such facility directly to wholesalers, retailers, or consumers in the United States (see section 744L(2) of the FD&C Act).

Under section 744M(a)(1)(A) of the FD&C Act, a facility fee for FY 2026 shall be assessed with respect to each facility that is identified as an OTC monograph drug facility during the fee-labile period from January 1, 2025, through December 31, 2025.³ Consistent with the statute, FDA will assess and collect facility fees with respect to the two types of OTC monograph drug facilities—MDF and CMO facilities. A full facility fee will be assessed to each qualifying person that owns a facility identified as an MDF (see section 744M(a)(1)(A) of the FD&C Act), and a reduced facility fee of two-thirds will be assessed to each qualifying person that owns a facility identified as a CMO facility (see section 744M(a)(1)(B)(ii) of the FD&C Act). The facility fees for FY 2026 are due on June 1, 2026 (see section 744M(a)(1)(D)(i)(I) of the FD&C Act).⁴

As discussed in greater detail below, OTC monograph drug facilities are exempt from FY 2026 facility fees if

³ Under section 744M(a)(1)(A)(i) of the FD&C Act, “Each person that owns a facility identified as an OTC monograph drug facility at any time during the applicable period . . . for a fiscal year shall be assessed an annual fee for each such facility”. The applicable period for FY 2026 is the 12-month period ending December 31, 2025.

⁴ Assuming that, as we anticipate, the FY 2026 fee appropriation will occur prior to June 1, 2026. Under section 744M(a)(1)(D)(i), the FY 2026 facility fees are due on the later of: (1) the first business day of June 2026 (i.e., June 1, 2026) or (2) the first business day after the enactment of an appropriations Act providing for the collection and obligation of FY 2026 OMUFA fees.

they had ceased OTC monograph drug activities, and updated their registration with FDA to that effect, prior to January 1, 2025 (see section 744M(a)(1)(B)(i)(I)(aa) of the FD&C Act).

For FY 2026, the OMUFA facility fee rates are: MDF facility fees (\$19,188) and CMO facility fees (\$12,792). These fees are effective for the period from October 1, 2025, through September 30, 2026.⁵ This document is issued pursuant to section 744M(a)(4) and 744M(c)(5)(B) of the FD&C Act and describes the calculations used to set the OMUFA facility fees for FY 2026 in accordance with the directives in the statute.

II. Facility Fee Revenue Amount for FY 2026

A. Base Fee Revenue Amount

Under OMUFA, FDA sets annual facility fees to generate the total facility fee revenues for each fiscal year established by section 744M(b) of the FD&C Act. The yearly base revenue amount is the starting point for setting annual facility fee rates. The base revenue for FY 2026 is the dollar amount of the total revenue amount for the previous fiscal year, without certain adjustments made for that previous year, and is \$36,467,438 (see section 744M(b)(2)(A) of the FD&C Act).

B. Fee Revenue Adjustment for Inflation

Under OMUFA, the annual base revenue amount for facility fees is adjusted for inflation for FY 2026, per section 744M(c)(1) of the FD&C Act. That provision states that the dollar amount of the inflation adjustment is equal to the product of the annual base revenue for the fiscal year and the inflation adjustment percentage. For FY 2026, the inflation adjustment percentage is equal to the sum of:

- The average annual percent change in cost, per full-time equivalent (FTE) position of the FDA, of all personnel compensation and benefits (PC&B) paid with respect to such positions for the first 3 years of the preceding 4 FYs, multiplied by the proportion of PC&B costs to total costs of the OTC monograph drug activities for the first 3 years of the preceding 4 FYs (see section 744M(c)(1)(C)(i) of the FD&C Act); and

- The average annual percent change that occurred in the Consumer Price Index (CPI) for urban consumers (Washington-Arlington-Alexandria, DC-VA-MD-WV; Not Seasonally Adjusted; All items; Annual Index) for the first 3 years of the preceding 4 years of available data multiplied by the

⁵ These OMUFA facility fees are for FY 2026, per section 744M(a) of the FD&C Act.

proportion of all costs other than PC&B costs to total costs of OTC monograph drug activities for the first 3 years of the preceding 4 FYs (see section 744M(c)(1)(C)(ii) of the FD&C Act).

Table 1 summarizes the actual cost and FTE data for the specified FYs, provides the percent changes from the previous FYs, and provides the average percent changes over the first 3 of the

4 FYs preceding FY 2026. The 3-year average is 5.4494 percent.

TABLE 1—FDA PERSONNEL COMPENSATION AND BENEFITS (PC&B) EACH FISCAL YEAR AND PERCENT CHANGES

Fiscal year	2022	2023	2024	3-Year average
Total PC&B	3,165,477,000	3,436,513,000	3,791,729,000	5.4494%
Total FTEs	18,474	18,729	19,687	
PC&B per FTE	171,348	183,486	192,601	
Percent Change From Previous Year	4.2967%	7.0838%	4.9677%	

Under the statute, this 5.4494 percent is multiplied by the proportion of PC&B costs to the total FDA costs of OTC monograph drug activities for the first 3

years of the preceding 4 FYs (see section 744M(c)(1)(C)(i) of the FD&C Act).

activities for the first 3 of the preceding 4 FYs.

Table 2 shows the PC&B and the total obligations for OTC monograph drug

TABLE 2—PC&B AS A PERCENT OF TOTAL COST OF OTC MONOGRAPH DRUG ACTIVITIES

Fiscal year	2022	2023	2024	3-Year average
Total PC&B	25,415,237	39,133,075	41,579,890	56.4429%
Total Costs	49,644,273	68,480,052	68,176,240	
PC&B Percent	51.1947%	57.1452%	60.9888%	

The payroll adjustment is 5.4494 percent from table 1 multiplied by

56.4429 percent from table 2, resulting in 3.0758 percent.

CPI for the Washington-Arlington-Alexandria, DC-VA-MD-WV area.⁶

Table 3 provides the summary data for the percent changes in the specified

TABLE 3—ANNUAL AND 3-YEAR AVERAGE PERCENT CHANGE IN CPI FOR WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV AREA

Fiscal year	2022	2023	2024	3-Year average
Annual CPI	296.12	305.32	315.186	4.3202%
Annual Percent Change	6.6212%	3.1069%	3.2324%	

The statute specifies that this 4.3202 percent be multiplied by the proportion of all costs other than PC&B to total costs of OTC monograph drug activities (see section 744M(c)(1)(C)(ii) of the FD&C Act). Because 56.4429 percent was obligated for PC&B (as shown in table 2), 43.5571 percent is the portion of costs other than PC&B (100 percent – 56.4429 percent = 43.5571 percent). The non-payroll adjustment is 4.3202 percent × 43.5571 percent, or 1.8818 percent.

Next, we add the payroll adjustment (3.0758 percent) to the non-payroll adjustment (1.8818 percent), for a total inflation adjustment of 4.9576 percent (rounded) for FY 2026.

Pursuant to the statute, the FY 2026 base revenue of \$36,467,438 is increased by the total inflation adjustment of 4.9576 percent, yielding an inflation adjusted base revenue amount of

\$38,275,348 for FY 2026 (see section 744M(c)(1)(A)).

C. Additional Dollar Amounts

OMUFA II requires that the facility fee revenue be increased by an additional dollar amount for each of fiscal years 2026–2028. For FY 2026, the inflation adjusted revenue amount of \$38,275,348 is increased by an additional dollar amount of \$2,373,000 as specified in the statute (see section 744M(b)(1)(E)(i) of the FD&C Act). This yields an adjusted fee revenue subtotal of \$40,648,348.

D. Fee Revenue Adjustment for Additional Direct Cost

Fee revenue is further adjusted for additional direct costs as specified in the statute. In FY 2026, \$135,000 is added to the facility fee revenues to account for additional direct costs (see

section 744M(c)(3)(A) of the FD&C Act). Adding the additional direct costs amount of \$135,000 to \$40,648,348 yields an additional direct cost adjusted fee revenue of \$40,783,348.

E. Fee Revenue Adjustment for Operating Reserve

Under OMUFA, FDA may further increase the FY 2026 facility fee revenue and fees if such an adjustment is necessary to provide up to 10 weeks of operating reserves of carryover user fees for OTC monograph drug activities (see section 744M(c)(2)(A) of the FD&C Act). Accordingly, in setting fees for FY 2026, the Agency must estimate its carryover for FY 2026 to ensure the Agency has sufficient operating reserves of carryover user fees to mitigate certain financial risks, such as under collections, unanticipated surges in program costs, or a lapse in

⁶ These data are published by the Bureau of Labor Statistics on its website: <https://data.bls.gov/pdq/>

SurveyOutputServlet?data_tool=dropmap&series_id=CUURS35ASA0,CUUSS35ASA0.

appropriations. Under the statute, if FDA has carryover for OTC monograph drug activities that would exceed 10 weeks of such operating reserves, FDA is required to decrease FY 2026 fee revenues and fees to provide for not more than 10 weeks of operating reserves of carryover user fees (see section 744M(c)(2)(B) of the FD&C Act).

Under OMUFA II, OMUFA facility fees will transition to being due the first business day in October, instead of the third quarter of each fiscal year (*i.e.*, the first business day in June) (see section 744M(a)(1)(D)).⁷ For FY 2027, OMUFA facility fees will be due in two equal installments, due the first business day of October and the first business day of February, respectively.⁸ With this transition, FDA will no longer need to retain sufficient carryover to sustain its statutorily-required OTC monograph drug activities until receipt of annual facility fee funding in the 3rd fiscal quarter. Accordingly, the additional 35-week continuity set-aside utilized under OMUFA I is no longer necessary and has been eliminated from fee calculations for FY 2026 and subsequent fiscal years under OMUFA II.

To determine the FY 2026 end-of-year operating reserves of carryover user fees, the Agency assessed the operating reserve of carryover user fees at the end of January 2026 and forecast collections and obligations for the remainder of FY 2026. FDA estimates the FY 2026 operating reserve of carryover user fees to be \$31,741,457.

To determine whether the carryover is within the 10-week limit for the operating reserve, the Agency starts with the additional direct cost adjusted fee revenue of 40,783,348 (calculated in section D), divides it by 52 to yield a weekly operating amount of \$784,295, and then multiplies the weekly operating reserve amount (\$784,295) by 10, resulting in an operating reserve limit of \$7,842,951. Because the estimated FY 2026 carryover is above the 10-week threshold, FDA is applying a downward operating reserve adjustment of \$23,898,506, equivalent to approximately 30 weeks, to bring the

operating reserve of carryover user fees to the statutory limit for such operating reserves (see section 744M(c)(2)(B) of the FD&C Act). The final FY 2026 OMUFA target facility fee revenue is \$16,885,000 (rounded to the nearest thousand dollars).

III. Facility Fee Calculations

A. Facility Fee Revenues and Fees

For FY 2026, facility fee rates are being established to generate a total target revenue amount, as determined under the statute, equal to \$16,885,000 (rounded to the nearest thousand dollars). FDA used the methodology described below to determine the appropriate number of MDF and CMO facilities to be used in setting the OMUFA facility fees for FY 2026. FDA took into consideration that the CMO facility fee is equal to two-thirds of the amount of the MDF facility fee (see section 744M(a)(1)(B)(ii) of the FD&C Act).

B. Calculating the Number of Qualifying Facilities and Setting the Facility Fees

For FY 2026, FDA utilized data consisting of the number of facilities that were registered in FDA's Electronic Drug Registration and Listing System (eDRLS) to manufacture human OTC drug products produced under a monograph⁹ during the FY 2026 fee-liable period (*i.e.*, January 1, 2025, through December 31, 2025, and that paid prior FY OMUFA facility fees, as the primary sources for estimating the number of each facility fee type (*i.e.*, MDF and CMO). In addition, the Agency considered data provided by firms regarding their operation as MDFs and CMOs during FY 2025 (*i.e.*, October 1, 2024, through September 30, 2025) when they were submitting OTC Monograph User Fee Cover Sheets to pay the FY 2025 fee. This data supported FDA's estimate of the number of firms operating as MDF and CMO facilities during the FY 2026 fee-liable period (*i.e.*, January 1, 2025, through December 31, 2025),¹⁰ and informed

FDA's calculation of the number and ratio of MDF and CMO facilities used in determining the FY 2026 fee rates. FDA's review of data also reflected input received during the FY 2026 fee-liable period from facilities whose manufacturing or processing practices meet the definition of fee-eligible OTC monograph drug facilities, to help capture those facilities that are in the market and intend to remain in the market for FY 2026.

Those facilities that only manufacture the active pharmaceutical ingredient of an OTC monograph drug do not meet the definition of an OTC monograph drug facility (see section 744L(10)(A)(i)(II) of the FD&C Act). Likewise, a facility is not an OTC monograph drug facility if its only manufacturing or processing activities are one or more of the following: (1) production of clinical research supplies; (2) testing; or (3) placement of outer packaging on packages containing multiple products, for such purposes as creating multipacks, when each monograph drug product contained within the overpackaging is already in a final packaged form prior to placement in the outer overpackaging (see section 744L(10)(A)(iii) of the FD&C Act).

In undertaking the statutorily directed fee calculations for FY 2026 fees, the Agency also made certain assumptions, including that: (1) facilities using expired Structured Product Labeling codes in eDRLS that have not reregistered, were no longer manufacturing and marketing OTC monograph drugs; (2) facilities that have deregistered in eDRLS have exited the market; (3) facilities that FDA believes registered incorrectly as OTC monograph drug facilities (for example, because the associated drug listings for these facilities did not include OTC monograph drugs but instead indicated such products as nonprescription drug products marketed under an approved drug application or nonprescription animal drug products) were not engaged in manufacturing or processing the

specified activities (*e.g.*, placement of outer overpackaging on products already in final packaged form); *cf* section 744A(6)(A)(ii) of the FD&C Act (which expressly excludes from the definition of "facility", for purposes of Generic Drug User Fee Amendments facility fees, a business or other entity whose only manufacturing or processing activities are repackaging, relabeling, or testing). See also 21 CFR 207.1 (addressing drug establishment registration), stating that "[m]anufacture means each step in the manufacture, preparation, propagation, compounding, or processing of a drug," and indicating that "the term 'manufacture, preparation, propagation, compounding, or processing,' as used in section 510 of the Federal Food, Drug, and Cosmetic Act, includes relabeling, repackaging, and salvaging activities."

⁷ Assuming that, as we anticipate, the annual fiscal year OMUFA fee appropriation will be enacted by October 1 of the fiscal year. Otherwise, the transitioned due date would be the first business day after the enactment of an appropriations Act providing for the collection and obligation of OMUFA fees for the fiscal year, per section 744M(a)(1)(D).

⁸ See section 744M(a)(1)(D)(ii) of the FD&C Act. For fiscal year 2028 and subsequent fiscal years, OMUFA facility fees will be due the first business day of October (or if later, the first business day after enactment of an appropriations Act providing for the collection and obligation of OMUFA fees for the fiscal year), per section 744M(a)(1)(D)(iii) of the FD&C Act.

⁹ See section 744M(d) of the FD&C Act. OTC monograph drug facilities had selected in the eDRLS the business operation qualifiers of "manufactures human over-the-counter drug products produced under a monograph" or "contract manufacturing for human over-the-counter drug products produced under a monograph" and indicated at least one of the following business operations: finished dosage form manufacture, label, manufacture, pack, relabel, or repack.

¹⁰ FDA considers relabelers and repackagers to be a category of OTC monograph drug facilities subject to OMUFA facility fees. See section 744L(10)(A); see also section 744L(10)(A)(iii) of the FD&C Act, excluding from the definition of "OTC monograph drug facility" those facilities whose manufacturing or processing consists solely of a narrow range of

finished dosage form of an OTC monograph drug; (4) facilities that registered but did not have an active OTC monograph drug product listing associated in their registration profile were not manufacturing or processing such drug products; (5) a portion of facilities that newly registered during the fee liable period are estimated to be in arrears based on a review of the prior 3-year average of newly registered facilities in arrears; and (6) facilities that, at the close of FY 2025, remain on the arrears list for failure to satisfy the FY 2023, FY 2024, or FY 2025 facility fee are likely to be placed on the FY 2026 arrears list as well.

Based on the above-referenced factors and assumptions, FDA estimates there will be 1,039 OMUFA fee-paying units. The Agency estimates that 54 percent ($1,039 \times 0.54 = 561$, rounded) will incur the MDF fee and 46 percent ($1,039 \times 0.46 = 478$, rounded) will incur the CMO fee.

To determine the number of full fee-paying equivalents (the denominator) to be used in setting the OMUFA fees, FDA assigns a value of 1 to each MDF (561) and a value of $\frac{2}{3}$ to each CMO ($478 \times \frac{2}{3} = 319$) for a full facility equivalent of 880 (rounded). The target fee revenue of \$16,885,000 is then divided by 880 for an MDF fee of \$19,188 and a CMO fee of \$12,792.

IV. Fee Schedule for FY 2026

The fee rates for FY 2026 are displayed in table 4.

TABLE 4—FEE SCHEDULE FOR FY 2026

Fee category	FY 2026 fee rates
MDF	\$19,188
CMO	12,792

V. Electronic Federal Payment Methods

The new facility fee rates are for the period from October 1, 2025, through September 30, 2026. To pay the MDF and CMO fees, complete an OTC Monograph User Fee Cover Sheet, available at: https://userfees.fda.gov/OA_HTML/omufacAcidLogin.jsp, and generate a unique user fee identification (ID) number or use the OMUFA FY 2026 Facility Fee Invoice that is issued by the Agency in April 2026.¹¹

Payments made to FDA must be made in U.S. currency drawn on a U.S. bank

by electronic check, credit card, or wire transfer. The preferred method for payments to FDA is online using electronic check (Automated Clearing House (ACH), also known as eCheck) or credit card (Discover, VISA, MasterCard, American Express). FDA has partnered with the U.S. Department of the Treasury to utilize *Pay.gov*, a web-based payment application, for online electronic payment. The *Pay.gov* feature is available on the FDA website upon receipt of an invoice or after completing the User Fee Cover Sheet and generating the user fee ID number. Secure electronic payments to FDA can be submitted using the User Fees Payment Portal at <https://userfees.fda.gov/pay>. (Note: Only full payments are accepted; no partial payments can be made online). Once an invoice or cover sheet is located, “Pay Now” should be selected to be redirected to *Pay.gov*. Electronic payment options are based on the balance due. Payment by credit card is available for balances less than \$25,000. If the balance exceeds this amount, only the ACH option is available. Payments must be made using U.S. bank accounts as well as U.S. credit cards.

For payments made by wire transfer, include the unique user fee ID or invoice number to ensure that the payment is applied to the correct fee(s). Without the unique user fee ID or invoice number, the payment may not be applied. The originating financial institution may charge a wire transfer fee. Include applicable wire transfer fees with payment to ensure fees are fully paid. Questions about wire transfer fees should be addressed to the financial institution. The following account information should be used to send payments by wire transfers: U.S. Department of the Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Account No.: 75060099, Routing No.: 021030004, SWIFT: FRNYUS33.

FDA's tax identification number is 53-0196965. If a fee is not paid in full, the fee will be treated as a claim of the U.S. Government (see section 744M(g) of the FD&C Act and 45 CFR part 30), meaning the invoice balance due amount is referred to collection.

If you are assessed an FY 2026 OMUFA facility fee and believe your facility is not an OTC monograph drug facility as described in this notice, please contact CDERCollections@fda.hhs.gov.

Grace Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-05276 Filed 3-17-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-P-3942]

Labeling and Preventing Cross-Contact of Gluten for Packaged Foods; Request for Information; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Petition for rulemaking; request for information; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the comment period for the notice that appeared in the **Federal Register** on January 22, 2026. In the notice, FDA requested data and information on the issues raised in and specific questions related to a citizen petition from Celiac Journey related to labeling and preventing cross-contact of gluten for packaged foods. We are taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the notice published on January 22, 2026 (91 FR 2781). Electronic or written comments must be submitted by April 22, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 22, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact

¹¹ The unique user fee identification (ID) number is also referred to as Payment Identification Number (PIN) in OMUFA coversheet creation instructions; these terms are used interchangeably. See https://userfees.fda.gov/OA_HTML/OMUFAFacilityFeeCoverSheetCreationProcess.pdf.

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-2023-P-3942 for “Labeling and Preventing Cross-Contact of Gluten for Packaged Foods; Request for Information.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed

except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Carol D’Lima, Office of Nutrition and Food Labeling (HFS-800), Nutrition Center of Excellence, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2371; Meridith L. Kelsch, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 22, 2026, FDA published a notice requesting data and information on the issues raised in a citizen petition from Celiac Journey requesting that FDA act to protect consumers with celiac disease by requiring that all ingredients with gluten be listed by name in the ingredient list and by requiring cross-contact controls with gluten-containing grains, as well as specific questions related to those issues (91 FR 2781). The notice requested comments by March 23, 2026.

We have received a request to extend the comment period for this notice. Pointing to the complexity of the issues and information requested and the need to collect responsive information, the request asserts that additional time would allow stakeholders to provide FDA with more thorough and useful responses. We have considered the request and are extending the comment period for the notice by 30 days, until April 22, 2026. We believe that the extension will allow adequate time for interested persons to submit comments.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-05259 Filed 3-17-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-2025-P-6392]

Determination That METHERGINE (Methylethylgonovine Maleate) Injection, 0.2 Milligram/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that METHERGINE (methylethylgonovine maleate) injection, 0.2 milligram (mg)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for methylethylgonovine maleate injection, 0.2 mg/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Sungjoon Chi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6216, Silver Spring, MD 20993-0002, 240-402-9674, Sungjoon.Chi@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that

the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, is the subject of NDA 006035, held by Edison Therapeutics LLC, and initially approved on November 19, 1946. METHERGINE is indicated for routine management of uterine atony, hemorrhage, and subinvolution of the uterus following delivery of the placenta. It is also indicated for control of uterine hemorrhage in the second stage of labor following delivery of the anterior shoulder.

METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, is currently listed in the “Discontinued Drug Product List” section of the Orange Book.

Gland Pharma Limited submitted a citizen petition dated November 21, 2025 (Docket No. FDA–2025–P–6392), under 21 CFR 10.30, requesting that the Agency determine whether METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list METHERGINE

(methylergonovine maleate) injection, 0.2 mg/mL, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to METHERGINE (methylergonovine maleate) injection, 0.2 mg/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05309 Filed 3–17–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–1864]

Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in Abbreviated New Drug Applications; Guidance for Industry, Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled “Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.” This guidance is intended to assist applicants who submit abbreviated new drug applications (ANDAs) for liquid-based and/or other semisolid products applied to the skin, including integumentary and mucosal (e.g., vaginal) membranes (referred to as “topical products”). This guidance provides recommendations for physicochemical and structural (collectively, “Q3”) characterizations that can be used to identify the dosage form of a proposed generic (test) topical product, and to describe properties of the drug product that may be critical to its performance (to support a demonstration of bioequivalence (BE)). This guidance finalizes the draft guidance of the same title issued on October 21, 2022.

DATES: The announcement of the guidance is published in the **Federal Register** on March 18, 2026.

ADDRESSES: You may submit either electronic or written comments on Agency guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2022–D–1864 for “Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.” 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 this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Rachel Erdman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1715, Silver Spring, MD 20993-0002, 301-348-3984, Rachel.Erdman@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs." This guidance is intended to assist applicants who submit ANDAs for liquid-based and/or other semisolid products applied to the skin, including integumentary and mucosal (e.g., vaginal) membranes. This guidance document provides recommendations for physicochemical and structural (collectively, "Q3") characterizations that can be used: (1) to identify the dosage form of a proposed generic (test) topical product and (2) to describe properties of the drug product that may be critical to its performance (to support a demonstration of BE). This guidance does not address Q3 characterization of topical products for purposes of product quality control.

Basic Q3 characterization of a topical product can be used to describe its dosage form (e.g., an emulsion). The nomenclature used to describe the dosage form of topical products (e.g., solutions, suspensions, gels, lotions, creams, shampoos, ointments, pastes, etc.) is not precisely defined by a systematic classification of the compositional, physicochemical, or structural attributes of the drug product. Consequently, for topical products, it may not be possible to infer the Q3 attributes of a particular dosage form based upon the dosage form nomenclature.

Comprehensive Q3 characterization of a topical product can be used to establish a detailed profile of Q3 attributes that specifically describes the nature of that product and identifies a collection of attributes that describe the arrangement of matter (e.g., the polymorphic form(s) of the active ingredient(s) and/or the pH of the drug product) that may modulate the systemic or local availability of the active ingredient(s) from the product. Because Q3 characterization describes essential attributes of a drug product that may be critical to its performance, differences in Q3 attributes between a test product and the reference standard selected by FDA can indicate a risk that the differences may impact the respective bioavailability and/or BE of the two products. Conversely, a demonstration that there are no differences in Q3 attributes between a test and reference standard substantially mitigates the risk of potential failure modes for BE that may otherwise arise from any differences in Q3 attributes.

This guidance provides recommendations on the types of

characterizations that constitute a basic and comprehensive Q3 characterization. This guidance also describes the concepts of "sameness," "similarity," and "difference" in comparing Q3 characterizations of two topical products, and how a showing of "Q3 sameness," "Q3 similarity," or "Q3 difference" between a test topical product and the reference standard may impact what additional evidence may be recommended to demonstrate BE, as part of a comparative product characterization-based approach.

This guidance finalizes the draft guidance entitled "Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs" issued on October 24, 2022 (87 FR 64230). FDA received no comments on the draft guidance. Editorial changes were made to improve clarity.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the current thinking of FDA on "Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs." 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.

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 314 relating to abbreviated new drug applications (ANDAs) have been approved under OMB control number 0910-0001. The collections of information in 21 CFR part 314 for controlled correspondence related to generic drug development is approved under OMB control number 0910-0727. The collections of information in 21 CFR part 58 that support Good Laboratory Practice (GLP) for Nonclinical Laboratory Studies have been approved under OMB control number 0910-0119. The collections of information in 21 CFR parts 312 and 320 pertaining to Investigational New Drug Safety Reporting Requirements involving Bioavailability and Bioequivalence Studies in Humans have been approved under OMB control number 0910-0014. The collections of information in 21 CFR 211.170 for recordkeeping requirements relating to

Current Good Manufacturing Practice (CGMP) sample retention have been approved under OMB control number 0910–0139.

III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05275 Filed 3–17–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Delta States Rural Development Network Grant Program, OMB No. 0915–0386—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than May 18, 2026.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance

Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Delta States Rural Development Network Grant Program, OMB No. 0915–0386—Revision.

Abstract: The Delta States Rural Development Network Grant (Delta) Program is authorized by the Public Health Service Act, Section 330A(f) (42 U.S.C. 254c(f)). The Delta Program supports projects that demonstrate evidence based and/or promising approaches around cardiovascular disease, diabetes, acute ischemic stroke, or obesity in order to improve health status in rural communities throughout the Delta Region. Key features of Delta Program-supported projects are collaboration, adoption of an evidence-based approach, demonstration of health outcomes, program replicability, and sustainability. HRSA collects information from Delta Program award recipients using an OMB-approved set of performance measures and wants to revise that information collection.

Need and Proposed Use of the Information: The purpose of the data collection is for HRSA to assess Delta Program awardees' progress in meeting the program goals (as stated in the authorizing statute) and how well each awardee meets their community needs. Additionally, HRSA will be able to monitor and assess the impact of the Delta Program and ensure funds are effectively used to provide services that meet the target population's needs.

HRSA seeks to revise the approved information collection, which Delta Program awardees will submit to HRSA on an annual basis. The proposed revisions include modifying how HRSA displays race and ethnicity measures in

the data collection platform by making it display as two separate questions for current Delta Program recipients. As the Delta Program recipients are currently in an active project period, this proposed revision would minimize any disruptions to their existing data collection processes and help maintain consistent data reporting to HRSA, while also starting to ease the transition toward SPD–15 compliance.

Additionally, the estimated total burden hours have increased to reflect the time required for current Delta Program awardees to complete data collection-related training for their internal staff as well as staff within their network partnerships. There are several additional contributing factors to the increase in estimated total burden. These grantee organizations vary in data collection and reporting capacity as well as vary in the number of network organizations they must coordinate with to report this data to HRSA. Furthermore, the grantee organization and its network organizations may not share the same data collection systems/platforms. As a result, this increase in total burden accounts for the time that Delta Program awardees will need to compile and review data quality from its network organizations prior to submitting the data to HRSA.

Likely Respondents: Respondents will be the Delta Program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Delta States Rural Development Network Program Performance Measures	12	1	12	72.75	873
Total	12	1	12	72.75	873

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026-05253 Filed 3-17-26; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Countermeasures Injury Compensation Program—OMB No. 0915-0334—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. No comments were submitted during the first public review of this ICR. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than April 17, 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 Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443-3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Countermeasures Injury Compensation Program—OMB No. 0915-0334—Revision.

Abstract: This is a request for continued OMB approval of the information collection requirements for the Countermeasures Injury Compensation Program (CICP or Program).

This request includes revisions to improve the efficiency of the information collection process and the quality of the information collected. The revisions streamline questions on the information collection documents and update CICP contact information. HRSA administers CICP in accordance with the Public Readiness and Emergency Preparedness Act (PREP Act) and CICP regulations at 42 CFR part 110. CICP is requesting continued approval for this information collection, which includes documents specified in CICP's regulations (42 CFR part 110).

The PREP Act authorized the establishment of CICP and provides liability immunity to covered persons for claims of loss caused by, arising out of, relating to, or resulting from the administration or use of covered countermeasures for diseases, threats, and conditions identified in PREP Act declarations. The immunity extended in the PREP Act encourages the development, manufacture, testing, distribution, and administration/use of countermeasures (e.g., vaccine, medication, device) when a disease, health condition, or other threat to health constitutes a public health emergency, or there is a credible risk that it may in the future constitute such an emergency. A 60-day notice published in the **Federal Register** on December 17, 2025, vol. 90, No. 240; pp. 58568. There were no public comments.

Need and Proposed Use of the Information: CICP provides compensation to eligible individuals who suffer serious injuries or death directly caused by a covered countermeasure administered or used pursuant to a PREP Act Declaration or to their estates and/or to certain survivors. An individual who is an injured countermeasure recipient, the estate or survivor(s) of a deceased injured countermeasure recipient, or their representative is responsible for submitting the Request for Benefits (RFB) package, as well as the injured countermeasure recipient's medical records and supporting documentation. Individuals can apply at any time, but eligibility for compensation is subject to meeting applicable filing deadlines and other requirements.

To determine whether a requester is eligible for Program benefits (compensation) for a countermeasure injury, CICP staff must review the RFB package, which includes the following:

(1) RFB Form and Supporting Medical Documentation: Submission of the RFB form and supporting medical documentation initiate the CICP claims review process. CICP assesses the RFB form and supporting medical documentation to gather required information about the requester, document the use or administration of a countermeasure, and obtain medical information about the countermeasure recipient.

(2) Authorization for Use or Disclosure of Health Information Form (Authorization Form): The requester or representative, if applicable, completes the Authorization Form and gives medical providers permission to disclose the countermeasure recipient's health information via medical records to CICP for the purpose of determining eligibility for CICP benefits.

(3) Additional Medical Documentation and Certification: During the eligibility review, CICP provides requesters with the opportunity to supplement their RFB package with additional medical records and supporting documentation before the Program makes a final decision. CICP may ask requesters and/or representatives to complete and sign a form indicating whether they intend to submit additional required documentation before the final determination of their case. After CICP makes a final decision on a case, there are no other opportunities for a requester or representative to submit additional medical records or supporting documents.

(4) Supporting Benefits Documentation: A requester who is an injured countermeasure recipient may be eligible to receive benefits for unreimbursed medical expenses and/or lost employment income. The estate of a deceased injured countermeasure recipient may also be eligible to receive payment for unreimbursed medical expenses and/or lost employment income accrued before the injured countermeasure recipient's death. Requesters seeking such benefits must submit documentation of the injured countermeasure recipient's unreimbursed medical expenses and lost employment income. If the administration or use of a covered countermeasure directly caused an individual's death, certain of the individual's survivors may be eligible to receive a death benefit, but not unreimbursed medical expenses or lost

employment income benefits (42 CFR 110.33). Survivors or their representatives must submit additional information, such as a marriage license, to prove that they are a survivor of the deceased countermeasure recipient.

The RFB package instructions outline the supporting documentation needed to determine the type and amount of benefits. This documentation is required under 42 CFR 110.60–110.63 to enable the Program to determine the type and amount of benefits the requester may be eligible to receive.

Likely Respondents: Countermeasure recipients, their estates, survivors, and/or their representatives, are the most likely respondents to this **Federal Register** notice regarding the CICP information collection request because CICP reviews and, if eligible, compensates countermeasure recipient injury claims.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to

develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Document name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Request for Benefits Form and Supporting Medical Documentation	360	1	360	11.00	3,960
Authorization for Use or Disclosure of Health Information Form (Authorization Form)	360	1	360	2.00	720
Additional Medical Documentation and Certification	324	1	324	0.75	243
Supporting Benefits Documentation	30	1	30	10.00	300
Total	1,074	.....	1,074	.....	5,223

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–05274 Filed 3–17–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Clinical Management in General Care Settings Study Section, April 14, 2026, 10:00 a.m. to April 15, 2026, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on March 16, 2026, 91 FR 12601, Doc 2026–05070.

This meeting is being amended due to SRO changed from Dr. Jessica Chambers

to Dr. Heidi Friedman. The meeting is closed to the public.

Dated: March 16, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05315 Filed 3–17–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Hazardous Waste Worker Training—42 CFR Part 65, National Institute of Environmental Health Sciences (NIEHS)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute of Environmental Health Sciences (NIEHS) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured

of having their full effect if received by March 18, 2026.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Sharon D. Beard, Director, Worker Training Program (WTP), Division of Extramural Research and Training (DERT), NIEHS, P.O. Box 12233 MD: K3–14, Research Triangle Park, NC 27709 or call non-toll-free number 984–287–3237 or Email your request, including your address to: beard1@niehs.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of

information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Hazardous Waste Worker Training Cooperative Agreement Recipient Data Collection—42 CFR part 65, 0925–0348, Expiration Date 07/31/2025 REVISION, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Institute of Environmental Health Sciences (NIEHS) was given major responsibility for initiating a worker safety and health training program under Section 126 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) for hazardous waste workers and emergency responders. A network of non-profit organizations that are committed to protecting workers and their communities by delivering high-quality, peer-reviewed safety and health curricula to target populations of hazardous waste workers and emergency responders has been developed. The NIEHS Worker Training Program (WTP) contains the Hazardous Waste Worker Training Program (HWWTP) and the NIEHS/DOE Nuclear Worker Training Program (DOE) to fund nonprofit organizations to develop and administer model health and safety training programs for hazardous materials or waste workers. The

Hazardous Materials Worker Health and Safety Training Program provides occupational safety and health training for workers who may be engaged in activities related to hazardous waste removal, containment, or chemical emergency response. This program is the core component of WTP. The other optional programs include the Environmental Career Worker Training Program (ECWTP) that focuses on delivering comprehensive training to increase the number of un- or underemployed workers in areas such as environmental restoration, construction, hazardous materials/waste handling, and emergency response and the HAZMAT Disaster Preparedness Training Program (HDPTP) that supports the development and delivery of training for hazardous material and debris cleanup commonly needed after natural and man-made disasters. The purpose of the NIEHS/DOE Nuclear Worker Training Program is to support the development of model programs for the training and education of workers engaged in activities related to hazardous materials and waste generation, removal, containment, transportation, and emergency response within the DOE nuclear weapons complex. In thirty-seven years (FY 1987–2024) the WTP has successfully supported 25 primary awardees that have trained more than 5 million workers across the country and presented over 316,561 classroom, hands-on, and online training courses,

which have accounted for over 60 million contact hours of actual training. Generally, the grant will initially be for one year, and subsequent continuation awards are also for one year at a time. Awardees must submit a separate application to have the support continued for each subsequent year. Awardees are to provide information in accordance with S65.4(a), (b), (c) and 65.6(a) on the nature, duration, and purpose of the training, selection criteria for trainees’ qualifications and competency of the project director and staff, the adequacy of training plans and resources, including budget and curriculum, and response to meeting training criteria in OSHA’s Hazardous Waste Operations and Emergency Response Regulations (29 CFR 1910.120). As a cooperative agreement, there are additional requirements for the progress report section of the application. Awardees are to provide their information into the WTP Awardee Data Management System. The information collected is used by the Director through officers, employees, experts, and consultants to evaluate applications based on technical merit to determine whether to make awards and whether appropriate training is being conducted to support continuation of the grant into subsequent years.

OMB approval is requested for three years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 800.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Awardee: Project Management Specialists	25	2	16	800
Total	25	50	.....	800

Dated: March 13, 2026.

Jennifer Baker,
Project Clearance Liaison, National Institute of Environmental Health Sciences, National Institutes of Health.

[FR Doc. 2026–05238 Filed 3–17–26; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: April 16, 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: Yun Mei, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 810-M, Bethesda, MD 20892, 301-827-4639, yun.mei@nih.gov.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Neuro Informatics, Computational and Data Analysis Study Section.

Date: April 16–17, 2026.

Time: 8:00 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: Aurea D. De Sousa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, 301-827-6829, aurea.desousa@nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Environmental Determinants of Disease Study Section.

Date: April 16–17, 2026.

Time: 8:30 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: Stacey Nicole Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, 301-867-5309, stacey.williams@nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.

Date: April 16–17, 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: Christine Jean DiDonato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1014J, Bethesda, MD 20892, 301-435-1042, didonatocj@csr.nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Pulmonary Vascular Disease and Physiology Study Section.

Date: April 16, 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: Bradley Nuss, Ph.D., Scientific Review Officer Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, Bethesda, MD 20892, 301-451-8754, nussb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Health Services: Quality and Effectiveness.

Date: April 16, 2026.

Time: 9:00 a.m. to 4:00 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: Michael J. McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301-480-1276, mike.mcquestion@nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.

Date: April 16, 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: Zachary Stephen Bailey, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-4691, zach.bailey@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuroimmune, Neuroinflammation, and Metabolic Factors Involved in Neurodegenerative Disorders.

Date: April 16–17, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mariam Zaka, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, 301-435-1042, zakam2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biomaterials and Biointerfaces.

Date: April 16, 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: Andrea Samantha Gobin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, 301-480-4959, andi.gobin@nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Human Studies of Diabetes and Obesity Study Section.

Date: April 16, 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: Baskaran Thyagarajan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800B, Bethesda, MD 20892, 301-594-0331, baski.thyagarajan@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 16, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05316 Filed 3–17–26; 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 Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (DKBSC), March 30, 2026, 10:00 a.m. to March 31, 2026, 5:00 p.m. to June 10, 2026, 9:00 a.m. to June 11, 2026, 4:00 p.m. National Institute of Health, Building 10, 10 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on July 24, 2025, 90 FR 34870.

The DKBSC is changing meeting date from March 30–31, 2026 to June 10–11, 2026 from 9:00 a.m. to 4:00 p.m. The meeting is partially closed to the public.

Dated: March 13, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05231 Filed 3–17–26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Partially Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of meetings of the National Advisory General Medical Sciences Council.

The meeting will be held as a virtual meeting and open to the public, as indicated below. Individuals who plan to view the virtual meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should submit a request using the following link: <https://www.nigms.nih.gov/Pages/ContactUs.aspx> at least 5 days prior to the event. The open session will also be videocast, closed captioned, and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov>).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: May 21, 2026.

Open: 9:30 a.m. to 12:00 p.m.

Agenda: For the discussion of programs; opening remarks; report of the Director, NIGMS; and other business of the NAGMSC.

Closed: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ariel Zane, Ph.D., Acting Director, Division of Extramural Activities, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN24C, Bethesda, MD 20892, (301) 594-3584, ariel.zane@nih.gov.

Name of Committee: National Advisory General Medical Sciences Council.

Date: September 10, 2026.

Open: 9:30 a.m. to 12:00 p.m.

Agenda: For the discussion of programs; opening remarks; report of the Director, NIGMS; and other business of the NAGMSC.

Closed: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ariel Zane, Ph.D., Acting Director, Division of Extramural Activities, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN24C, Bethesda, MD 20892, (301) 594-3584, ariel.zane@nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <https://www.nigms.nih.gov/about/council/Pages/default>, where an agenda and any additional information for the meeting will be posted when available.

Dated: March 13, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-05237 Filed 3-17-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the HIV Comorbidities and Clinical Studies Study Section, March 26, 2026, 9:00 a.m. to March 27, 2026, 6:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 24, 2026, FR Doc 2026-03671, 91 FR 8894.

The meeting date is changing from a 2-day meeting (3/26-3/27) to a 1-day meeting (3/27/2026). The meeting is closed to the public.

Dated: March 13, 2026.

Margaret N. Margaret,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-05236 Filed 3-17-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6610-N-01]

Notice of Intent To Prepare an Environmental Impact Statement for the Fulton Park Redevelopment Project in Brooklyn, New York

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of intent.

SUMMARY: New York City, through the New York City Department of Housing Preservation and Development (HPD) and the New York Department of City Planning (DCP), intend to prepare an Environmental Impact Statement (EIS) for the proposed Fulton Park Redevelopment project in Brooklyn, New York. This Notice of Intent (NOI) initiates the public scoping process for the EIS and solicits public comments from interested members of the public, agencies, and tribes on the proposed project scope, purpose, and need; significant environmental issues, information, and analyses relevant to the Proposed Action; and the identification of potential alternatives to be evaluated in the EIS.

DATES: Comments Due: Comments in response to this notice will be accepted during the virtual public scoping meeting to begin at 2:00 p.m. Eastern Time (ET) on Thursday, April 2, 2026; and may also be submitted in writing until 5 p.m. ET on Monday, April 13, 2026. See "Instructions for Submitting Comments" below for further information.

ADDRESSES: This NOI, the Draft Scope of Work (DSOW), and supporting documents are available on the proposed project website: <https://zap.planning.nyc.gov/projects/2024K0294>. The documents will be provided in hard copy upon request. Interested parties are invited to submit comments by any of the following methods:

Email address: nepa_env@hpd.nyc.gov.

Postal mail: Department of Housing Preservation and Development, Attn: Anthony Howard, 100 Gold Street, #7-A3, New York, NY 10038.

All submissions should include the agency name and the docket number that appears in the heading of this notice. A summary of the comments received will be included in the EIS.

FOR FURTHER INFORMATION CONTACT: Anthony Howard, Director of Environmental Planning, Department of Housing Preservation and

Development—Division of Building and Land Development Services, 100 Gold Street, #7–A3, New York, NY 10038; email: nepa_env@hpd.nyc.gov, telephone: (212) 863–7106. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

A. Background

New York City, through HPD, as a Responsible Entity in accordance with 24 CFR 58.2(a)(7), and DCP, serving as lead agency in accordance with New York State Environmental Quality Review Act (SEQRA) and New York City Environmental Quality Review (CEQR), is issuing this NOI to solicit comments and advise the public and agencies that an EIS will be prepared for the proposed Fulton Park Redevelopment project in Brooklyn, New York. As the Responsible Entity, HPD assumes responsibility for the environmental review, decision-making, and actions that would otherwise apply to HUD under NEPA.

Fulton Park Development LLC and HPD (the applicants) are requesting local and Federal discretionary actions (known collectively as the Proposed Action) to facilitate the redevelopment of two adjacent, underutilized sites (the project area) with new open space, residential, retail, and community facility uses across 12 new buildings. The existing buildings within the project area contain a total of 209 dwelling units which are subject to a project-based Housing Assistance Payments (HAP) contract under Section 8 of the United States Housing Act of 1937, as amended. The requested amendment to the current HAP contract is a federal action requiring HUD approval and subject to environmental requirements.

The proposed action has the potential to significantly affect the quality of the human environment. NEPA (42 U.S.C. 4321 *et seq.*) and HUD's regulations (24 CFR part 58) require the preparation of an EIS. HPD and DCP will prepare the EIS in accordance with NEPA, HUD implementing regulations at 24 CFR part 58, and, as appropriate, the New York State Environmental Quality Review Act (SEQRA) and the New York City Environmental Quality Review (CEQR).

Responses to this notice will be used to: (1) refine the project scope, (2) finalize the purpose and need, (3)

determine significant environmental issues, information, and analyses relevant to the Proposed Action; (4) assist in developing a reasonable range of alternatives to be considered; and (5) identify agencies and other parties, and the basis for their involvement, that will participate in the EIS process.

B. Project Sites

Project Area

Project Site maps are available on the project website: <https://zap.planning.nyc.gov/projects/2024K0294>.

The Project Area comprises Brooklyn Block 1702, Lot 1; Block 1708, Lot 1; and areas not mapped within a Tax Lot (which include the former roadbed of closed portions of Utica Avenue and Herkimer Street) in the Bed-Stuy neighborhood of Brooklyn Community District (CD) 3. The Project Area contains the Fulton Park Site and the HPD Site, which are described in detail below. The boundary of the Project Area to the west of Utica Avenue is to be confirmed pending confirmation of the City's property boundaries. It is assumed that no development would occur on the portion of Block 1708, Lot 1 west of Utica Avenue (the Other Area); this area is part of the Project Area, but it is not included in either the Fulton Park Site or the HPD Site.

The Project Area is located within the Fulton Park Urban Renewal Area (the Urban Renewal Area), the plan for which (the Urban Renewal Plan) was originally adopted by the City Planning Commission in 1985 (ULURP No. C850254HUK) and by the Board of Estimate (BOE) in 1988 (Cal. No. 16), as amended in 1993 and 2003. The Urban Renewal Plan expires on February 11, 2028. Within the Project Area, Block 1708, p/o Lot 1 (the portion of the Fulton Park Site south of the former Herkimer Street) is designated as Site 7, and Block 1702, p/o Lot 1 (the portion of the Fulton Park Site north of the former Herkimer Street) is designated as Site 8. A portion of the HPD Site (the portion of Block 1702, Lot 1 west of Utica Avenue) is designated as Site 8a. Easements run between Sites 7 and 8, and both south and west of Site 8a. Both Sites 7 and 8 are limited to "Residential Use" under the Urban Renewal Plan, which is defined to include residential uses, community facilities, limited recreational facilities, and local retail. Site 8a is indicated as "Public and Quasi-Public", defined as public and community facility uses including schools, libraries, community centers, hospitals, nursing homes, and health related facilities. On Site 7, there is a

supplemental control that states that no building shall be built within 10 feet of the north line of Atlantic Avenue in order to set back from the elevated train tracks within Atlantic Avenue. Building bulk is otherwise permitted by the Zoning Resolution, and the Urban Renewal Plan explicitly permits zoning map amendments.

The Project Area is located entirely within an R6B zoning district. R6B districts are medium-density districts that require contextual development pursuant to contextual bulk, height, and setback regulations. R6B zoning districts are designated for single- and multi-family residential use, although multi-family apartment buildings are most commonly found within such districts. R6B zoning districts allow 2.0 FAR for residential uses, 2.40 for Qualifying Affordable Housing (QAH; including Universal Affordability Preference [UAP]), and 2.0 for community facility uses. Base heights range from a minimum of 30 feet to a maximum of 45 feet and the maximum building height permitted is 55 feet (65 feet with QAH).

Fulton Street has a width of 80 feet and is a "Wide Street" as defined in the New York City Zoning Resolution (ZR) Section 12–10. Atlantic Avenue has a width of 120 feet and is a Wide Street. Herkimer Street is 70 feet in width and is a "Narrow Street" as defined in ZR Section 12–10. Utica Avenue has a width of 70 feet and is a Narrow Street, but functions as a Wide Street within the context of the surrounding neighborhood because it serves as a major corridor, supports public transit, and has wide sidewalks. Rochester Avenue has a width of 70 feet and is narrow Street. Hunterfly Place has a width of 50 feet and is a narrow Street.

The Project Area is also located in the Inner Transit and FRESH Zones. The Inner Transit Zone provides special lower accessory parking requirements. As such, no accessory off-street parking is required for newly developed dwelling units. FRESH Zones provide discretionary tax and zoning incentives through the New York City Industrial Development Agency for the establishment and retention of grocery stores in underserved communities. The Project Area is eligible for zoning and discretionary tax incentives under this program.

The Project Area is well served by public transportation. The A and C subway lines run along Fulton Street, and the Utica Avenue station is located directly across Utica Avenue and Fulton Street from the Project Area with entrances on both the north and south sides of Fulton Street. There are multiple bus lines serving the Project

Area. The B25 runs primarily along Fulton Street and stops immediately adjacent to the Project Area near the intersection of Fulton Street and Utica Avenue. The B46 runs primarily along Utica Avenue and stops immediately adjacent to the Project Area at the intersections Utica Avenue with both Fulton Street and Atlantic Avenue.

Development Sites and Other Area

Fulton Park Site

The Fulton Park Site is an irregularly shaped superblock comprising (1) the portions of Block 1702, Lot 1 and Block 1708, Lot 1 that are east of Utica Avenue and (2) a segment of the former roadbed of Herkimer Street that is located between Utica Avenue and Hunterfly Place that was discontinued and closed in 1983. The Fulton Park Site includes a total lot area of approximately 268,100 square feet (SF), and is bounded by Fulton Street to the north, Rochester Avenue and Hunterfly Place to the east, Herkimer Street and Atlantic Avenue to the south, and Utica Avenue to the west. There is an easement for water and sewer running through the former bed of Herkimer Street between the northern and southern portions of the Fulton Park Site. There are also several National Grid and Consolidated Edison (ConEd) easements traversing the site from east to west.

The Fulton Park Site includes 37 three-story multifamily buildings, that contain 209 existing housing units, and one single-story accessory management office building (known collectively as Existing Buildings) and surface parking lots. As noted above, the existing housing units are subject to a project-based HAP contract under Section 8 of the United States Housing Act of 1937, as amended. Originally built in the early 1980s, the Existing Buildings are configured as part of a low-scale tower-in-the-park superblock. The Existing Buildings include a total of approximately 214,111 SF of residential space. One of the surface parking lots, located in the former roadbed of Herkimer Street, contains approximately 45 parking spaces for use exclusively by existing housing units' residents. There is also an unused paved area along Atlantic Avenue that was once used as a parking lot but is now not accessible to residents or the public. There are landscaped lawns and pedestrian pathways running throughout the site, spaces which are generally underutilized.

The Fulton Park Site is subject to restrictive, disposition, and regulatory agreements related to the Existing Buildings and Housing Units; however,

it is not anticipated that amendments would require additional City Planning Commission (CPC) actions beyond the Proposed Action described below.

HPD Site

The HPD Site comprises (1) the portion of Block 1702, Lot 1 west of Utica Avenue and (2) the area between the western boundary of Block 1702, Lot 1 and the eastern boundary of Block 1701, Lot 1 (this area is not part of a Tax Lot; it is the former roadbed of Utica Avenue). The HPD Site is bounded by Fulton Street to the north, Utica Avenue to the east, the former roadbed of Herkimer Street to the south, and the eastern boundary of Block 1701, Lot 1 to the west. The former roadbeds of Utica Avenue and Herkimer Street are mapped on the HPD Site, along with a 35-foot-wide sewer easement. The lot area of the HPD Site is assumed to be approximately 38,514 SF, though the square footage and the City's property boundaries are subject to confirmation. The HPD Site is currently vacant. The central portion of the site is surrounded by a chain-link fence and overgrown with trees. On the northern portion of the site, there is a paved pedestrian path providing access to an entrance to the Utica Avenue subway station located near Fulton Street. There is a single temporary structure on the site: a New York Police Department (NYPD) guardhouse located at the corner of Fulton Street and Utica Avenue.

The HPD Site was identified by HPD in its Bedford-Stuyvesant Housing Plan as the Fulton-Utica Site. The Housing Plan states that development proposals for the site should incorporate community facility uses and programming that incorporate youth enrichment activities and recreation. The site design should improve the pedestrian experience, and amenities should be catered to the historically underserved neighborhood.

Other Area

Although included in the Project Area, no development would occur in either the portion of Block 1708, Lot 1 west of Utica Avenue or the area south of Block 1702, Lot 1 and north of Block 1708, Lot 1 (this area is not part of such Tax Lots; it is the former roadbed of Herkimer Street). This area is unimproved. The total area west of Utica Avenue to be rezoned is approximately 66,642 SF which comprises the 38,514 SF HPD Site and approximately 28,128 SF of area where no development would occur.

C. Preliminary Purpose and Need

The purpose and need statement establishes the basis for developing and evaluating a range of reasonable alternatives for environmental review and assists with the identification of a Preferred Alternative.

The purpose of the Proposed Action is to improve site conditions in the Project Area consistent with statutory requirements, approved plans, zoning requirements, and existing agreements.

The needs of the Proposed Action are:

- Provide affordable and market rate housing;
- Incorporate community facility and other uses in the Project Area consistent with approved plans;
- Rehabilitate underutilized public spaces; and
- Facilitate the direct relocation of tenants in existing housing units into new housing units.

D. Preliminary Description of Alternatives the EIS Will Consider

Consistent with Section 102(2)(C)(iii) of NEPA, the EIS will examine a reasonable range of alternatives, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal. As a result of the project planning efforts to date, the alternatives currently proposed for evaluation in the EIS include:

- (a) No Action Alternative;
- (b) Preferred Alternative; and
- (c) No Unmitigated Significant Adverse Impacts Alternative.

The *No Action Alternative* assumes no major rehabilitation or improvements to the Project Area. Only routine maintenance would be completed to maintain housing and sites for residents and the public. At some point, maintenance repairs would no longer be cost effective, and the deteriorating site conditions could result in additional underutilization of the Project Area. Additionally, it would not be feasible to develop affordable nor market rate housing in the Project Area under the No Action Alternative.

The *Preferred Alternative* would redevelop the underutilized Fulton Park and HPD sites with a mixed-use development program that responds to the needs of the community, allows for the provision of new community facility space, updates and improves the site layout and connectivity, builds a substantial amount of new affordable and market rate housing, and relocates tenants of the existing housing units

into new housing units. By facilitating the development of approximately 2,035 dwelling units (DUs) (including 209 Section 8 DUs as replacements for the existing housing units, 351 100-percent affordable DUs at the HPD Site, and 337 to 505 new permanently-affordable units pursuant to Mandatory Inclusionary Housing (MIH)), the Preferred Alternative would help address the needs of Brooklyn CD 3 and would be in support of the goals and objectives of several applicable public policies aiming to address the needs for affordable housing throughout the City. Such policies include the *Bedford-Stuyvesant Housing Plan*, *Housing Our Neighbors: A Blueprint for Housing and Homelessness*, and *Where We Live NYC*.

The Preferred Alternative would seek the following local actions with respect to the Project Area:

- Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of city-owned property at Block 1702, p/o Lot 1 (the HPD Site).
- Amendment to the Second Amended Fulton Park Urban Renewal Plan (URP) to reflect the disposition action above and amend the use designation of (i) the HPD Site (Site 8A of the URP) from Public/Quasi-public land to Residential and/or Commercial and (ii) the Fulton Park Site (Sites 7 and 8 of the URP) from Residential to Residential and/or Commercial.

An amendment of Zoning Map 17a to rezone Brooklyn Block 1702, Lot 1, and Block 1708, Lot 1 from an R6B to (A) an R8X/C2-4 zoning district beginning at the intersection the centerline of Atlantic Avenue and the extension of the western street line of Utica Avenue a boundary line perpendicular to Atlantic Avenue running north approximately 679'-0" to the centerline of Fulton Street, then east a distance of 514'-2", then south perpendicular to Fulton Street a distance of 100' from the southern Fulton Street street line, then west a distance of 119'-3" parallel to Fulton Street, then at an angle of 124 degrees in the south westerly direction a distance of 134'-1" parallel to Utica Avenue, then south in a line perpendicular to Atlantic Avenue a distance of 243'-5", then east parallel to Atlantic Avenue to the centerline of Hunterfly Place, then along the centerline of Hunterfly Place to the centerline of Atlantic Avenue, then along Atlantic Avenue to the westerly side of Utica Avenue; (B) an R7D/C2-4 zoning beginning in the midpoint of Rochester Avenue westerly a distance of 250' along the centerline of Fulton Street, then south a distance of 140'

perpendicular to Fulton Street, then 250' easterly to the centerline of Rochester Avenue, then north along the centerline of Rochester Avenue to the centerline of Fulton Street; (C) an R6D zoning district beginning at the intersection of the centerlines of Herkimer Street and Rochester Avenue along the centerline of Herkimer Street to the intersection with the centerline of Hunterfly Place, then along the centerline of Hunterfly Place a distance to 222'-11", then westerly 244'-7" parallel to Atlantic Avenue, then north perpendicular to Atlantic Avenue a distance of 243'-5", then at an angle in the north westerly direction a line parallel to Utica Avenue a distance of 134'-1", then in the easterly direction a line parallel to Herkimer Street to the centerline of Rochester Avenue, then along the centerline of Rochester Avenue to the centerline of Herkimer Street.

- An amendment to the text of Appendix F of the Zoning Resolution to designate the Project Area as an MIH Area, as required by the MIH program. Such designation will facilitate the replacement of the existing housing units and creation of new permanently affordable dwelling units. As identified in the City's housing plans and in various local planning efforts, the City is in dire need of affordable housing. Consistent with such needs, the Proposed Development will create a substantial amount of new affordable housing units.
- An authorization to modify the location and width of curb cuts as required under 25-631 pursuant to 25-631 (f)(2). The curb cuts, as currently proposed, would be 12 feet wide and located in the same locations as the existing 35-foot wide curb cuts on Utica Avenue and at the intersection of Hunterfly Place and Herkimer Street. The proposed curb cuts decrease the degree of existing non-compliance with the applicable curb cut location and width requirements.
- In addition, the Applicants are seeking the following Federal action: HUD approval to amend the current HAP contract that covers the 209 existing units on the site.
- It is possible that the Applicants could seek additional funding or financing through discretionary State actions at a later date. The environmental review for the Preferred Alternative under CEQR also satisfies SEQRA.

Alternatives may be revised based on the consideration of public and agency

comments. The range of reasonable alternatives will be finalized after consideration of comments received during the comment period on this notice and will be documented in the Draft EIS.

E. Expected Environmental Effects and Anticipated Permits and Other Authorizations

The EIS will evaluate the reasonably foreseeable environmental impacts resulting from the implementation of a reasonable range of alternatives. The following resources and issues have been identified for evaluation in the EIS and supporting documents: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic and Cultural Resources/Historic Preservation; Urban Design and Visual Resources; Natural Resources; Hazardous Materials; Water and Sewer Infrastructure; Transportation; Air Quality; Greenhouse Gas Emissions and Climate Change; Noise; Public Health; Neighborhood Character; Construction; and Effects on Disadvantaged Communities.

The DSOW includes a preliminary list of anticipated permits and approvals from Federal and local agencies. DCP and HPD will coordinate with appropriate Cooperating Agencies, Participating Agencies, and entities for compliance with Federal, state, and local laws. DCP and HPD invite all interested parties to participate in the Public Scoping Meeting.

F. Description of Scoping Process and Schedule for the Decisionmaking Process

The publication of this NOI initiates the public scoping period. All interested Federal, state, and local agencies; Indian Tribes; and the public are invited to comment on the scoping documents, including comments on the identification of potential alternatives and significant environmental issues, information, and analyses relevant to the Proposed Action. Agencies with jurisdiction over natural or other public resources affected by the project or that possess information about the Project Area that DCP and HPD should consider in the Draft Environmental Impact Statement (DEIS) are invited to submit comments, as Cooperating Agencies and Participating Agencies, to the individuals named in this NOI.

No decisions about the project will be made at the Public Scoping Meeting.

After the public scoping period, DCP and the Applicants will compile comments received to develop a Final Scope of Work for the DEIS and will

prepare the DEIS. The DEIS will analyze the potential environmental effects of the chosen alternatives that meet the Proposed Action's purpose and need. Once the DEIS is complete, it will be made available to the public through a Notice of Availability posted in the **Federal Register** and on <https://zap.planning.nyc.gov/projects/2024K0294>. A Notice of Availability of the DEIS is anticipated to be published in the Spring of 2026. A minimum 45-day public comment period will commence on the date of publication, and a public hearing will be held during that period. Additionally, the availability of the DEIS and public comment opportunities will be announced through public notices, public mailings, and local news media.

After the DEIS public comment period, a Final Environmental Impact Statement (FEIS) will be prepared. At this time, it is anticipated that a Notice of Availability of the FEIS will be published in the Fall 2026, after which it is anticipated a Record of Decision (ROD) will be issued.

G. Instructions for Submitting Comments

The DSOW is available on the project website, located at <https://zap.planning.nyc.gov/projects/2024K0294>. Instructions for participating in the public scoping meeting are available at <https://www.nyc.gov/content/planning/pages/calendar>. Instructions for joining the scoping meeting will be posted on DCP's website the day of the meeting. To continue to allow for broad public participation options, DCP will hold the public scoping meeting remotely. The meeting will begin at 2 p.m. ET on Thursday, April 2, 2026.

Individuals who require additional special assistance, such as interpretation, captioning, or signing services to participate in the public scoping meeting, should make the request by emailing accessibility@planning.nyc.gov by 5 p.m. ET on March 18, 2026.

Benjamin Hobbs,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2026-05289 Filed 3-17-26; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-ES-2025-N034;
FXES11130600000-267-FF06E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct scientific research to promote conservation or other activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by April 17, 2026.

ADDRESSES: *Document availability and comment submission:* Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name(s) and application number(s) (e.g., Smith, PER0123456 or Jones, ES-056001):

- *Email:* permitsR6ES@fws.gov.
- *U.S. Mail:* Tom McDowell, Division Manager, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486 DFC, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Robert Krijgsman, Recovery Permits Coordinator, Ecological Services, 303-236-4347 (phone) or permitsR6ES@fws.gov (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite

review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and the Freedom of Information Act.

Background

With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA's definition of "take" includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Permit No.	Applicant	Species	Location	Activity	Permit action
ES59243C	Revive & Restore, Sausalito, CA.	• Black-footed ferret (<i>Mustela nigripes</i>).	Laboratories in CA, NY, TX, and IA.	Genetics research in lab settings using cell lines; store and transfer genetic material; cell culturing; and use of interspecies somatic cell nuclear transfer technique with surrogate domestic ferrets.	Renewal.
ES26376D	Steve Forrest, Truckee, CA.	• Black-footed ferret (<i>Mustela nigripes</i>).	MT, SD, and KS ...	Capture, handle, mark, vaccinate, release, reintroduce, and monitor populations.	Renewal.
PER0012679	University of Northern Colorado, Greeley, CO.	• Knowlton's cactus (<i>Pediocactus knowltonii</i>). • San Rafael cactus (<i>Pediocactus despainii</i>). • Wright fishhook cactus (<i>Sclerocactus wrightiae</i>). • Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CO, NM, and UT ..	Remove and reduce to possession from lands under Federal jurisdiction.	Renew and amend.
ES66330D	Martin & Nicholson Environmental Consultants, LLC.	• Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CO and UT	Survey and play taped vocalizations.	Renew and amend.
PER22707976	Donald Gilbert, Loveland, OH.	• Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	AZ, CA, CO, NV, NM, TX, UT, MT, and WY.	Survey and play taped vocalizations.	New.
PER17870208	Watershed Institute, Inc., Belton, MO.	• Neosho Mucket (<i>Lampsilis rafinesqueana</i>).	KS	Survey, document habitat use, conduct population monitoring, capture, handle, release, and relocate under special circumstances.	New.
ES79842A	Jeremy White, Omaha, NE.	• Northern long-eared bat (<i>Myotis septentrionalis</i>). • Indiana bat (<i>Myotis sodalis</i>) • Gray bat (<i>Myotis grisescens</i>) • Wyoming toad (<i>Anaxyrus baxteri</i>)	NE and IA	Capture, handle, band, tag, collect tissue samples, and conduct radio telemetry for research studies and population monitoring.	Renew.
ES232905	Como Park Zoo and Conservatory, Saint Paul, MN.		MN and WY	Survey, capture, handle, transport, capture rear and breed, tag, swab, release, research, and conduct habitat restoration.	Renew.
ES67251D	Kelly Haun, Durango, CO.	• Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CO	Survey and play taped vocalizations.	Renew.
ES42721B	City of Fort Collins, Natural Area Department, Fort Collins, CO.	• Black-footed ferret (<i>Mustela nigripes</i>).	CO	Survey, capture, anesthetize, vaccinate, mark, tag, collect biological samples, research, and monitor populations.	Renew.
PER19682189	Melissa Giuffre, Kanab, UT.	• Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	UT	Survey and play taped vocalizations.	New.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to an applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 *et seq.*).

Marjorie Nelson,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2026–05232 Filed 3–17–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS–2026–0034; OMB Control Number 1028–0133; GX26GB00H7G3D00]

Agency Information Collection Activities; Earth Mapping Resources Initiative (Earth MRI) Competitive Cooperative Agreement Program With State Geological Surveys

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 18, 2026.

ADDRESSES: You may submit comments by one of the following methods:

■ **Internet:** <https://www.regulations.gov>. Search for and submit comments on Docket No. USGS–2026–0034.

■ **U.S. Mail:** USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT: Tina Hamalak by email at earthmri@usgs.gov, or by telephone at 303–236–5766.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. An agency may not

conduct or sponsor, nor is an individual required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: Public Law 117–58, Section 40201, “Earth Mapping Resources Initiative” contained in the Infrastructure Investment and Jobs Act (IIJA) authorizes and accelerates the mapping efforts of the Earth Mapping Resources Initiative (Earth MRI).

Earth MRI is a component of the USGS Mineral Resources Program and is a national effort to carry out the fundamental resources and mapping mission of the USGS. The goal of Earth MRI is to modernize the surface and subsurface geologic mapping of the

United States, with a focus on identifying areas that may have the potential to contain mineral resources.

The IIJA directed the USGS to accelerate efforts to carry out fundamental integrated topographic, geologic, geochemical, and geophysical mapping and provide interpretation of subsurface and above-ground (mine waste) critical-mineral resources data at a funding level of \$320,000,000 annually for five years (FY2022–FY2026). Additionally, Executive Order 14154, “Unleashing American Energy” (January 20, 2025), directed the Department in section 9(d) to “accelerate the ongoing, detailed geological mapping of the United States, with a focus on locating previously unknown deposits of critical minerals.”

IIJA Section 40201 stipulates that the USGS may enter into cooperative agreements with State geological surveys to carry out the efforts of Earth MRI. The USGS developed a new competitive cooperative agreement program with the State geological surveys to support mine-waste activities authorized by the IIJA. State geological surveys apply for funds through an annual competitive agreement process. Individual State projects last for up to two years.

The IIJA requires the USGS to collect information necessary to ensure that cooperative-agreement funds authorized by this legislation are used in accordance with the IIJA and Federal assistance requirements under 2 CFR 200. Information collected by Earth MRI as part of the consolidated workplan is described below. The USGS seeks Office of Management and Budget approval to continue to collect this information to manage and monitor cooperative agreement awards and comply with the IIJA and Federal assistance requirements.

Title of Collection: Earth Mapping Resources Initiative (Earth MRI) Competitive Cooperative Agreement Program with State Geological Surveys.

OMB Control Number: 1028–0133.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State Geological Surveys.

Total Estimated Number of Annual Respondents: 25.

Total Estimated Number of Annual Responses: 125.

Estimated Completion Time per Response: Applications: 25×60 hrs. = 1,500 hrs.

Progress Reports: 25 recipients $\times$ (3 reports $\times$ 8 hrs.) = 600 hrs.

Final Reports: 25×20 hrs. = 500 hrs.

Total Estimated Number of Annual Burden Hours: $1,500 + 600 + 500 = 2,600$ hrs.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Alicia Lindauer,

Acting Associate Director of Geology, Energy, and Minerals Mission Area, U.S. Geological Survey.

[FR Doc. 2026–05258 Filed 3–17–26; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7015; NPS–WASO–NAGPRA–NPS0042370; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Fish and Wildlife Service, Mountain-Prairie Region, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Fish and Wildlife Service (USFWS), Mountain-Prairie Region has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Jennifer Kolise, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225, email jennifer_kolise@fws.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the USFWS, Mountain-Prairie Region, and additional information on the determinations in this notice, including the results of consultation, can be found in its

inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been identified. At least 188 associated funerary objects have been identified, including: 15 glass trade beads, around six glass beads, three copper bracelets, approximately 85 copper beads, three cupric rings, 68 dentalium shells, one soil sample in a separate plastic bag, and remnants of one textile—most likely a shirt or jacket—containing at least six metal or glass beads.

Based on available documentation, the individuals and their belongings were discovered in May 1980 in a coulee on the USFWS Charles M. Russell National Wildlife Refuge (NWR) in Fort Peck, MT. No additional provenience information is known. The individuals and their belongings were sent by the USFWS to the Federal Bureau of Investigation (FBI) Laboratory in Glasgow, MT for examination, which occurred in August 1980. The individuals and their belongings were then sent to the Smithsonian Institution's National Museum of Natural History (NMNH) in Washington, DC for unknown reasons, and were returned to the Charles M. Russell NWR in 2025.

The ancestors and their belongings were not treated with hazardous substances to the best of USFWS and NMNH knowledge.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The USFWS, Mountain-Prairie Region has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The 188 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the USFWS, Mountain-Prairie Region must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The USFWS, Mountain-Prairie Region is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05301 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7003; NPS–WASO–NAGPRA–NPS0042358; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: University of California San Diego, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California San Diego intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the

Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 17, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Eva Trujillo, Repatriation Coordinator, University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, email e7trujillo@ucsd.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California San Diego, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 11 cultural items have been requested for repatriation. The 11 unassociated funerary objects are chipped stone.

Sometime in January of 1963, these items were excavated and removed from the vicinity of Lake Manix, San Bernadino County, California, by University of California San Diego associates Dr. C.L. Hubbs and party.

The unassociated funerary objects listed were incorporated into what became known as the "Hubbs Collection." In 1973, Dr. Hubbs bequeathed the Hubbs Collection to the Museum of Us (formerly the San Diego Museum of Man). In March of 2004, the Museum of Us (MoU) deaccessioned the Hubbs Collection and donated it to the University of San Diego (USD) Anthropology Department, although some of the collection remained at the MoU. Given the scope of the collection and complexities related to provenance, UC San Diego, MoU, and USD reached an agreement to work together to facilitate NAGPRA compliance in collaboration with the Tribes. There is no presence of any potentially hazardous substances used to treat any of the cultural items.

Determinations

The University of California San Diego has determined that:

- The 11 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death

rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Yuhaaviatam of San Manuel Nation (previously listed as San Manuel Band of Mission Indians, California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the University of California San Diego must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California San Diego is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05290 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7011; NPS-WASO-NAGPRA-NPS0042366; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC-DOA) has completed an inventory of human remains from site 40HR587, Hardin County, Tennessee, and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Phillip R. Hodge, Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC-DOA), 1216 Foster Avenue, Cole Building #3, Nashville, TN 37243, email *Phil.Hodge@tn.gov*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the TDEC-DOA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. These remains were found on the shoreline of the Tennessee River by a private individual and reported to the Tennessee Valley Authority (TVA) and local law enforcement. TVA determined the property was not within their jurisdiction and TDEC-DOA was contacted by local law enforcement for transfer and repatriation. The remains were transferred to TDEC-DOA in November 2025.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The TDEC-DOA has determined that:

- The human remains described in this notice represent the physical remains of at least one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Alabama-Coushatta Tribe of Texas; Cherokee Nation; Eastern Band of Cherokee Indians; Poarch Band of Creek Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the TDEC-DOA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The TDEC-DOA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05295 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7006; NPS-WASO-NAGPRA-
NPS0042361; PPWOCRADN0-
PCU00RP14.R50000]

**Notice of Inventory Completion:
University of California San Diego, San
Diego, CA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California San Diego has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Eva Trujillo, Repatriation Coordinator, University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, email e7trujillo@ucsd.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California San Diego, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least 124 individuals have been identified. There are 27 associated funerary objects present. Sometime in 1974–1980's, Ancestral remains from various mounds on St. Catherine's Island, GA. These individuals were excavated during several archaeological recoveries throughout the years and transferred to several various institutions. At a later unknown date in 1986, isolates from the Native American ancestral remains and faunal material were extracted from at the University of Georgia, American Museum of Natural History, and the Fernbank Museum, and subsequently submitted to Dr. Margaret Schoeninger at UC San Diego for isotopic analysis.

No hazardous substances were used to treat the residual ancestral human remains.

Human remains representing at least five individuals have been identified. Sometime in 1974–1980's, ancestral remains from Pine Harbor, GA, were excavated during an archaeological recovery and transferred to several various institutions. At a later unknown date in 1986, five isolates from the Native American remains were extracted from the Pine Harbor ancestral and then submitted to Dr. Margaret Schoeninger at UC San Diego for isotopic analysis. No associated funerary objects are present. No hazardous substances were used to treat the residual ancestral human remains.

The University of Georgia and the University of California San Diego, have agreed to work together for the purpose of coordinating repatriation efforts for reunification and NAGPRA compliance as requested by the Tribes.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of California San Diego has determined that:

- The human remains described in this notice represent the physical remains of 129 individuals of Native American ancestry.
- The 27 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Miccosukee Tribe of Indians and the Seminole Tribe of Florida.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the University of California San Diego must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of California San Diego is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05305 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7005; NPS-WASO-NAGPRA-
NPS0042360; PPWOCRADN0-
PCU00RP14.R50000]

**Notice of Intended Repatriation:
University of California San Diego, San
Diego, CA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California San Diego intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 17, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Eva Trujillo, Repatriation Coordinator, University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, email e7trujillo@ucsd.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California San Diego, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of three cultural items have been requested for repatriation. In May of 1956, these items were excavated and removed from an unknown site in Kern County, California, by University of California San Diego associates Dr. C.L. Hubbs and party. The unassociated funerary objects were subsequently incorporated into what became known as the "Hubbs Collection." In 1973, Dr. Hubbs bequeathed the Hubbs Collection to the Museum of Us (formerly the San Diego Museum of Man). In March of 2004, the Museum of Us (MoU) deaccessioned the Hubbs Collection and donated it to the University of San Diego (USD) Anthropology Department, although some of the collection remained at the MoU. Given the scope of the collection and complexities related to provenance, UCSD, MoU, and USD reached an agreement to work together to facilitate NAGPRA compliance.

Determinations

The University of California San Diego has determined that:

- The three unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Santa Rosa Indian Community of the Santa Rosa Rancheria, California and the Tejon Indian Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this

notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the University of California San Diego must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California San Diego is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05298 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7007; NPS–WASO–NAGPRA–NPS0042362; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: University of California San Diego, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California San Diego has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Eva Trujillo, Repatriation

Coordinator, University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, email e7trujillo@ucsd.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California San Diego, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least 43 individuals have been identified. Sometime between 1989 and 1992, Native American ancestral remains were removed from the Amelia Island vicinity in Nassau County, Florida. These individuals were excavated by Dr. Clark Larsen of the University of North Carolina in participation with the University of Florida—Florida Museum of Natural History. At a later unknown date, isolates from these individuals were transferred to Dr. Margaret Schoeninger and brought to the UC San Diego campus for isotopic analysis. No hazardous substances were used to treat the residual ancestral human remains. There are no associated funerary objects present.

The University of Florida—Florida Museum of Natural History and the University of California San Diego, have agreed to work together to coordinate repatriation efforts and NAGPRA compliance as requested by the Tribes for the Amelia Island individuals.

Human remains representing at least 25 individuals have been identified. Sometime between 1989 and 1992, Native American ancestral remains were removed from various archaeological sites in Leon County, FL. These individuals were excavated by Dr. Clark Larsen of the University of North Carolina. At a later unknown date, isolates from the individuals were transferred to Dr. Margaret Schoeninger and brought UC San Diego for isotopic analysis. No hazardous substances were used to treat the residual ancestral human remains. There are no associated funerary objects present.

Humans representing at least four individuals have been identified. Sometime between 1989 and 1992, Native American ancestral remains were removed from an archaeological site in Alachua County, FL. These individuals were excavated by Dr. Clark Larsen of the University of North Carolina. At a later unknown date, isolates from the

individuals were transferred to Dr. Margaret Schoeninger and brought UC San Diego for isotopic analysis. No hazardous substances were used to treat the residual ancestral human remains. There are no associated funerary objects present.

Humans representing at least 15 individuals have been identified. Sometime between 1989 and 1992, Native American ancestral remains were removed from various archaeological sites in Duval County, FL. These individuals were excavated by Dr. Clark Larsen of the University of North Carolina. At a later unknown date, isolates from the individuals were transferred to Dr. Margaret Schoeninger and brought UC San Diego for isotopic analysis. No hazardous substances were used to treat the residual ancestral human remains. There are no associated funerary objects present.

Humans representing at least 10 individuals have been identified. Sometime between 1989 and 1992, Native American ancestral remains were removed from an archaeological site in Columbia County, FL. These individuals were excavated by Dr. Clark Larsen of the University of North Carolina. At a later unknown date, isolates from the individuals were transferred to Dr. Margaret Schoeninger and brought UC San Diego for isotopic analysis. No hazardous substances were used to treat the residual ancestral human remains. There are no associated funerary objects present.

Cultural Affiliation

Based on the information available and the results of consultation cultural affiliation is reasonably identified by the geographical location of the human remains described in this notice.

Determinations

The University of California San Diego has determined that:

- The human remains described in this notice represent the physical remains of 97 individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and the Seminole Tribe of Florida.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the University of California San Diego must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of California San Diego is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05292 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7004; NPS–WASO–NAGPRA–NPS0042359; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: University of California San Diego, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California San Diego intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 17, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Eva Trujillo, University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, email e7trujillo@ucsd.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California San Diego and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two objects of cultural patrimony are two double-sided historic ledger drawings acquired by the University of California San Diego through the Plains Indian Ledger Drawing Digital Publishing Project.

Koba, the original Kiowa author, was one of 72 warriors from a number of Plains Indian tribes imprisoned without trial after the Red River War in 1875 at Fort Marion, St. Augustine, Florida. There is no evidence of potentially hazardous substances.

Determinations

The University of California San Diego has determined that:

- The two objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Kiowa Tribe (previously listed as Kiowa Indian Tribe of Oklahoma).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the University of California San Diego

must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California San Diego is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05294 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7013; NPS–WASO–NAGPRA–NPS0042369; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Field Museum, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Field Museum has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to June Carpenter, Field Museum, 1400 South Lake Shore Drive, Chicago, IL 60605, email jcarpenter@fieldmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Field Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On January 31, 1901, one individual was removed from Tejon Pass in Kern County, California by Dr. John W. Hudson. The individual was accessioned by the Field Museum on June 28, 1901. There is no known presence of any potentially hazardous substances.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

The Field Museum has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Tejon Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the Field Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Field Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05293 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7014; NPS–WASO–NAGPRA–NPS0042368; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN, and Western Kentucky University, Bowling Green, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC–DOA) and Western Kentucky University (WKU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Phillip R. Hodge, Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC–DOA), 1216 Foster Avenue, Cole Building #3, Nashville, TN 37243, email Phil.Hodge@tn.gov and Nikki A. Wilcox, Western Kentucky University, 1906 College Heights Blvd., Bowling Green, KY 42101, email nikki.wilcox@wku.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the TDEC–DOA and WKU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been identified. The 649 associated funerary objects are lithic and faunal materials, shell, and ceramic artifacts.

Site 15LO11, Logan County, Kentucky

In 2025, TDEC–DOA discovered a box in their repository labeled “Savage Cave, 15LO11; 10–69.” Upon examination, it was determined that the numbers referred to a date (October 1969) rather than a TDEC–DOA accession number. Inside the box, TDEC–DOA found a single partial ancestor and various materials removed from the site, most likely by a Tennessee Archaeology Society (TAS) member who later donated them to TDEC–DOA, although no records confirm this. Research revealed that 15LO11 is a multicomponent location that has experienced extensive looting over the years. Several Kentucky universities, along with advocational archaeology groups such as TAS have been associated with the site. TDEC–DOA contacted all relevant universities and discovered additional site materials in Western Kentucky University’s care.

At WKU this site was visited by both Dr. Jack Schock in 1969/1970 and later by Valerie Haskins in the 1990’s. According to artifact bags in the collection and the ledgers that were kept, Dr. Jack Schock likely visited the site with students and excavated a unit in 1969/1970. While there are no field journals notes from this time, records from an incomplete ledger of that period documents that materials were removed in 1969 on January 11th, February 19th, February 22nd and April 30th, as well as in 1970 on May 28th. At least one Ancestor was removed during this time, and the listed belongings removed included faunal remains, lithics, ceramics and shell. Based upon the presence of unit-depth information in the ledger, the archaeologists excavated one unit or trench despite there being no unit numbers or locations listed.

In 1970, one student completed a short documentation and subsequent summary of the faunal remains removed during the 1969/1970 excavations. This is the only further known documentation completed at this site. Despite there being a larger number of belongings known to have been removed during the 1969/1970 excavation, only seven of the belongings have been located, meaning that 638 belongings and one Ancestor are currently unaccounted for presently. Steps are being taken to identify their location.

In 1995, WKU students, under the guidance of Valerie Haskins, visited this site to see the aftermath of looting. Students visited the cave twice in 1995; on November 29th and December 2nd. During these visits, Haskins and students removed the remains of at least one Ancestor and brought them back to WKU. The remains of this Ancestor were not included in the initial 1990’s NAGPRA inventory for reasons unknown.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The TDEC–DOA and WKU have determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The 649 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Quapaw Nation; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the TDEC–DOA and WKU

must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The TDEC–DOA and WKU are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O’Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05306 Filed 3–17–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6979; NPS–WASO–NAGPRA–NPS0042300; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Gilcrease Museum, Tulsa, OK

Editorial Note: Notice document 2026–05038 originally published on pages 12620–12621 in the issue of Monday, March 16, 2026. In that publication, the notice had incorrect text throughout. The notice is republished here corrected and in its entirety.

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Gilcrease Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 15, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Laura Bryant, Gilcrease Museum, 1400 N Gilcrease Museum Road, Tulsa, OK 74127, email laura-bryant@utulsa.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service’s administrative responsibilities under NAGPRA. The

determinations in this notice are the sole responsibility of the Gilcrease Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The 41 associated funerary objects are 35 lots of ceramic vessels, one lot of lithic tools, one pebble, and four lots of sherds. Gregory Perino excavated these from the Harris site (22DS504) in DeSoto County, MS between 1957 and 1959 under the auspices of the Thomas Gilcrease Foundation.

Human remains representing, at least, one individual has been identified. The 33 associated funerary objects are 20 lots of ceramic vessels, one ceramic bead, five lots of sherds, two lots of lithic tools, two lots of grinding stones, one shell gorget, one pipe bowl, and one awl. Gregory Perino excavated these from the Irby site (22DS516) in DeSoto County, MS in 1957 under the auspices of the Thomas Gilcrease Foundation.

Human remains representing, at least, nine individuals have been identified. The 11 associated funerary objects are seven lots of ceramic vessels, one lot of sherds, and three lithic tools. Gregory Perino excavated these from the Lake Cormorant site (22DS501) in DeSoto County, MS in 1957 under the auspices of the Thomas Gilcrease Foundation.

The two associated funerary objects are one ceramic vessel and one lot of sherds. These were removed from the Walls Site in DeSoto County, MS. The vessel was acquired by Gregory Perino for the museum in the late 1950s. The sherds were collected by Frank Soday in the mid-20th century, and Gilcrease purchased Soday's collection in 1982.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The Gilcrease Museum has determined that:

- The human remains described in this notice represent the physical remains of 10 individuals of Native American ancestry.
- The 87 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of

death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Quapaw Nation and The Chickasaw Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 15, 2026. If competing requests for repatriation are received, the Gilcrease Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Gilcrease Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 5, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. R1-2026-05038 Filed 3-17-26; 8:45 am]

BILLING CODE 0099-10-D

DEPARTMENT OF THE INTERIOR

National Park Service

[N7012; NPS-WASO-NAGPRA-NPS0042367; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC-DOA) has completed an inventory of human remains and associated funerary objects from unknown sites in Shelby County, TN, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Phillip R. Hodge, Tennessee Department of Environment and Conservation, Division of Archaeology (TDEC-DOA), 1216 Foster Avenue, Cole Building #3, Nashville, TN 37243, email Phil.Hodge@tn.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the TDEC-DOA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The six associated funerary objects are six lots of artifacts are described below.

Human remains representing, at least, one individual and six lots of artifacts, including two lots of ceramic, two lots of lithics, one lot of fauna, and one lot of burned bone. These materials were recovered in the Nonconnah Creek drainage south of Memphis, Tennessee in 1950-1952 during an archaeological survey by the Memphis Archaeological & Geological Society. All remains and materials were transferred to TDEC-DOA in 2025 from the estate of a private individual who participated in that survey. No further information exists as to the specific site(s) of origin for any of the above-listed materials. There is no known exposure to hazardous substances or treatments.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the

geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The TCED-DOA has determined that:

- The human remains described in this notice represent the physical remains of at least, one individual of Native American ancestry.
- The six lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and The Chickasaw Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the TDEC-DOA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The TDEC-DOA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05299 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7010; NPS-WASO-NAGPRA-NPS0042365; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sam Noble Oklahoma Museum of Natural History (SNOMNH), intends to repatriate certain cultural items that meet the definition of sacred objects and that have a cultural affiliation with the Native Hawaiian organization in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 17, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Chelsea Rose, Interim NAGPRA Program Coordinator, Sam Noble Oklahoma Museum of Natural History, 2401 Chautauqua Avenue, Norman, OK 73072, email chelsea.rose@ou.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SNOMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 10 cultural items have been requested for repatriation. The 10 sacred objects are: 'Ulī'ulī (Gourd Rattle, OC-01-03-005), Ipu Paka (Tobacco Pipe, OC-01-03-009), Wa'a (Model Canoe, OC-01-03-010), Wa'a (Model Canoe, OC-01-03-011), Ipu Paka (Tobacco Pipe, OC-01-03-012), 'Umeke Lā'au (Wood Bowl, OC-01-03-013), and Niho Palaoa (Whale Tooth, OC-01-03-014) donated by J.R. Simpson in 1944-45; Tapa (Kapa, OC-01-03-002) collected by Lilly Stafford in 1925 and donated to the SNOMNH by Betty Baehr; Kapa (Tapa, OC-01-03-023) donated by Wesley Young from the R. Snoddy Home Economics collection in 2008; and Kapa (Tapa, OC-01-02-024) donated by J.W. Grew in 1956.

In the past, hazardous substances were used to treat the Ethnology Collection at the SNOMNH. The Ethnology Collection was, in part or whole, exposed to Paradichlorobenzene (PBD) (in textile storage, use discontinued before or around 1981); Naphthalene (moth flake packets stored with textiles, use discontinued around 1985); Vapona (no-pest-strips, active ingredient: Dichlorvos DDVP); and pyrethrins (placed in cases with objects, use discontinued around 1986). None of these products ever came into direct contact with objects. Any potential treatments of these objects by donors are unknown.

The building where the Ethnology collection was previously stored was subject to fumigation multiple times per year from 1983-1985, using Vapo-Mist 500, 5% Vapona Insecticide (active ingredient was dichlorovinyl dimethyl phosphate (DDVP) and also contained petroleum distillates and 1,1,1-trichloroethane). Please be aware that chemical remnants may be present in objects as well as museum cabinets and/or other furniture used to store collections.

Determinations

The SNOMNH has determined that:

- The 10 sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- There is a connection between the cultural items described in this notice and the Hui Iwi Kuamo'o.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the SNOMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are

considered a single request and not competing requests. The SNOMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05291 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7009; NPS-WASO-NAGPRA-NPS0042364; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Hawai'i Volcanoes National Park, HI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Hawai'i Volcanoes National Park (HAVO) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 17, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Rhonda Loh, Park Superintendent, P.O. Box 52, Hawai'i National Park, HI 96718, email rhonda_loh@nps.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Hawai'i Volcanoes National Park, and additional information on the determinations in

this notice, including the results of consultation, can be found in its inventory or related records.

Abstract of Information Available

Human remains representing, at least, six individuals have been identified. The 173 associated funerary objects are volcanic flakes, cores, charcoal samples, soil samples, worked faunal remains, beads, fishhook fragments, bottle fragments, can fragments, shells, adzes, sherds, unknown (metal fragments), bolts, abraders, coral, and different types of pōhaku. These associated funerary objects are from salvage archeological excavations in Kalapana that took place between 1987 and 1989, specifically from Poupou Kauka and Ka'ili'i Village, located in the ahupua'a of Poupou Kauka/Pūlama. The excavations took place before the area was inundated by lava flows. After completion of the fieldwork, the materials excavated were sent for multiple types of analyses over the course of several years and eventually separated. One portion of the excavated material was accessioned under HAVO-00314 and HAVO-00317 in 1990, and the other portion was set aside at the time to potentially be used as reference collection however, went into storage and was not used in this manner.

Based on available information from the archeological record and draft archeological report that was produced as a result of the fieldwork, there is no known presence of potentially hazardous substances on any of the human remains and associated funerary objects, and the cultural affiliation is Native Hawaiian (Kanaka Maoli) based on the pre-Contact dates confirmed through the archeological analysis completed. Items on the inventory are all from archeological test pits that contain confirmed human remains (iwi kūpuna) which were confirmed through osteological analysis. This inventory fulfills the NPS' responsibility for completing an inventory of human remains and associated funerary objects in 43 CFR 10.10(d) of the NAGPRA implementing regulations.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determination

The Hawai'i Volcanoes National Park has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native Hawaiian ancestry.
- The 173 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice to the Kaina, Kahilihiwa and Ka'awaloa 'Ohana group.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Native Hawaiian organizations identified in this notice.
2. Any lineal descendant or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the Hawai'i Volcanoes National Park must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Hawai'i Volcanoes National Park is responsible for sending a copy of this notice to the Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 12, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05303 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7008; NPS-WASO-NAGPRA-
NPS0042363; PPWOCRADN0-
PCU00RP14.R50000]

**Notice of Intended Repatriation:
Whitman College, Maxey Museum,
Walla Walla, WA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Whitman College, Maxey Museum (WCMM) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 17, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Jeanine Gordon, Special Assistant to the President for Native American Outreach, Whitman College, 345 Boyer Avenue, Walla Walla, WA 99362, email gordonj@whitman.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WCMM, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 19 cultural items have been requested for repatriation. The 12 unassociated funerary objects are copper bracelets. The seven sacred objects are two fan-shaped boards, a rectangular robe, a cedar stick with animals carved at each end, a bone hackler, a stone chisel, and a model of a baby and board.

All objects were donated by Mrs. Sarah Eels in 1907. They all date to pre-1900 and come from the Northwest Coast. The copper bracelets [WHIT-E-0406] were found in Sequim, Washington. The fan-shaped boards [WHIT-E-0194] have an accession record that dates them to 1751. The rectangular robe [WHIT-E-0496] was

acquired around 1880 in Jamestown and exhibited by the State of Washington World's Fair Commission in 1893. The cedar stick [WHIT-E-0177] was Makah made but traded to Jamestown S'Klallam and used in tamanowas ceremonies. The stone chisel [WHIT-E-0266] is possibly pre-contact. The bone hackler [WHIT-E-0302] was found at Dungeness among the S'Klallam in 1896. The model baby and board [WHIT-E-0147] also has a tag stating it was exhibited in the 1893 World's Fair; the tag states it was obtained at Jamestown in 1896 from the S'Klallam but made by the Makah.

Determinations

The WCMM has determined that:

- The 12 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- The seven sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a connection between the cultural items described in this notice and the Jamestown S'Klallam Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by

a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 17, 2026. If competing requests for repatriation are received, the WCMM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The WCMM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05300 Filed 3-17-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**Bureau of Ocean Energy Management**

[Docket No. BOEM-2025-0714]

**Notice of Intent To Prepare an
Environmental Impact Statement on
Platform Gilda Well Stimulation
Treatment**

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: Consistent with the U.S. Department of the Interior (Department or DOI) regulations and handbook implementing the National Environmental Policy Act (NEPA) and DOI's alternative arrangements to comply with NEPA during a national emergency, the Bureau of Ocean Energy Management (BOEM) announces its intent to prepare an environmental impact statement (EIS) to consider the impacts of DCOR, L.L.C.'s (DCOR) proposal to supplement its existing approved Development and Production Plan (DPP). The proposed supplemental DPP details information and procedures for proposed Well Stimulation Treatments (WST), including hydraulic fracturing, for Platform Gilda, which is offshore Ventura, California. This NOI serves to announce the scoping process BOEM will use to identify significant

issues and potential alternatives for consideration in the Platform Gilda Well Stimulation Treatment Environmental Impact Statement (WST EIS) (Unique Identification Number DOI-BOEM-PC-2026-0003-EIS). The supplemental DPP considers hydraulic fracturing of up to 16 existing wells to increase reservoir permeability in order to optimize hydrocarbon recovery.

DATES: BOEM will consider comments from all interested parties, including Tribes, Federal, State, and local governments, and the general public. Written comments must be submitted by March 30, 2026.

ADDRESSES: Information regarding the scoping process for the EIS is available on the BOEM website at: <https://www.boem.gov/GildaWST>. Written comments can be submitted through the [regulations.gov](https://www.regulations.gov) web portal: Navigate to <http://www.regulations.gov> and search for Docket BOEM-2025-0714, or “Platform Gilda Well Stimulation Treatment Environmental Impact Statement”, and click on the “Comment” button. Enter your information and comment, and then click “Submit.”

FOR FURTHER INFORMATION CONTACT: For information on the Platform Gilda Well Stimulation Treatment Environmental Impact Statement, the submission of comments, or BOEM’s policies associated with this notice, please contact Susan Zaleski, Acting Regional Supervisor, Office of Environment, BOEM, Pacific OCS Region, 760 Paseo Camarillo, Suite 102, Camarillo, CA 93010, (805) 384-6328 or PacificRegion.Environment@boem.gov.

SUPPLEMENTARY INFORMATION: Platform Gilda (Lease number OCS P-0216) is located on the Pacific Outer Continental Shelf (POCS), approximately nine miles southwest of Ventura, California in the Santa Barbara Channel and lies within the Santa Clara Unit of federal OCS leases. The platform was installed in 1981 in approximately 205 feet of water and has operated continuously since its installation. The original DPP and Environmental Report were prepared by Union Oil Company of California in November 1979 and approved by BOEM’s predecessor, the U.S. Geological Survey, in December 1980. An update to the DPP was submitted in October 1985 and approved in July 1986. More information is available on the BOEM website at: <https://www.boem.gov/regions/pacific-ocs-region/oil-gas/development-and-production-plans-pacific>.

Purpose and Need for the Proposed Action

The purpose of the Proposed Action is to enhance the recovery of petroleum and gas from an existing oil platform on the POCS, beyond that which could be recovered without the use of WSTs.

The need for the proposed action is to further the conservation and orderly development of OCS oil and gas resources in accordance with the Outer Continental Shelf Lands Act of 1953 (OCSLA), as amended (43 United States Code [U.S.C.] 1331 *et seq.*) through the efficient recovery of oil and gas reserves from the POCS. The enhancement of resource extraction from an existing platform using existing infrastructure avoids the impacts of new development activities or infrastructure. Oil serves as the feedstock for a variety of liquid hydrocarbon products, among them transportation fuels and various petrochemicals. Natural gas is generally considered an environmentally preferable alternative to other fossil fuels to generate electricity or for residential and industrial heating, and is an important feedstock for manufacturing fertilizers, pharmaceuticals, plastics, and packaging.

Proposed Action and Preliminary Alternatives

The Proposed Action (Alternative A and the agency Preferred Alternative) evaluated in this EIS is to approve the proposed supplemental DPP to allow the use of WSTs.

Under Alternative A, DCOR would be authorized to conduct hydraulic fracturing of up to 16 existing wells on Platform Gilda. This action is intended to improve hydrocarbon recovery from low-permeability zones by increasing effective reservoir permeability and bypassing near-wellbore formation damage. Permeability is a measure of a rock’s ability to allow fluids to flow through it—low permeability rocks restrict fluid flow. Hydraulic fracturing creates artificial channels (fractures) or enlarges flow pathways through which the fluid can flow.

Platform Gilda produces from three different geologic formations. These include the Pico, Repetto, and the Monterey. The Repetto formation is the target of the WST program because it is a low-permeability geological formation, making it suitable for well stimulation. Reservoir simulation studies and recent geologic interpretation have identified four well stimulation target locations in the Upper Repetto and 12 well stimulation target locations in the Lower Repetto, for a total of 16 locations. Each

treatment will be preceded by a Diagnostic Fracture Injection Test (DFIT) to collect formation-specific pressure and fracture gradient data. This information is used to calibrate stimulation designs using reservoir modeling software. Hydraulic fracturing works by injecting fluids at high pressure into the target formation to create narrow, controlled fractures in the rock. Once the fractures are initiated, a proppant—typically sand or ceramic spheres—is carried into the formation by the fracturing fluid. The proppant remains in the fractures after pressure is released, holding them open to maintain improved flow paths for hydrocarbons.

In total, the full stimulation program may include up to 38 treatment stages distributed across 16 wells, with each Upper Repetto well expected to require 2 stages, and each Lower Repetto well expected to require 2.5 stages on average. Each stage is expected to take 6 hours from start to finish. Of this, 4 hours are dedicated to active pumping operations, and 2 hours of “standby” for engineering analysis and final redesign. It is anticipated that up to 6 wells could be stimulated per year, depending on operational logistics, permitting timelines, and equipment availability.

The base fluid for all treatments will be filtered seawater sourced from the surrounding marine environment using Platform Gilda’s existing seawater pumps. All flowback fluid generated during stimulation activities will be routed through a closed-loop handling system and retained on the Platform. Returned stimulation fluids will be re-injected into existing injection wells on the Platform. No offshore discharge of flowback fluids will occur. Solid waste, such as residual sand or other materials, will be separated and contained for transport to a licensed onshore disposal facility. All liquid waste will be disposed of in accordance with the platform’s currently approved National Pollutant Discharge Elimination System (NPDES) permit.

In this EIS, BOEM expects to consider the Proposed Action and a No Action Alternative (Alternative B).

Under Alternative B, the use of WSTs from Platform Gilda would not be approved, potentially reducing the amount of petroleum and gas recovered from existing wells on the POCS, beyond that which could be recovered without the use of WSTs. Without the use of WSTs, overall production from the existing platform Gilda is likely to be reduced absent any additional recovery measures. At the same time, if energy demand continues at current levels or increases, the No Action

Alternative could increase the need for development of other sources of energy.

Several alternatives were considered but not carried forward for analysis in this EIS because they are not applicable to the conditions and geological formations described in the Proposed Action or are technically infeasible. These include:

- Implosive/explosive fracturing—Pressure pulses in the wellbore from explosives. This process has generally fallen out of favor due to variable results and has been replaced by hydraulic fracturing. These uncertainties include potential wellbore damage, the creation of short fractures, and safety concern with handling explosives.
- Enhanced Oil Recovery Techniques, including waterflood, gas injection (CO₂), and chemical flooding (the use of polymers and surfactants to modify fluid properties, improved sweep efficiency, reduced surface tension between oil and water). All of these techniques are context dependent, meaning they can be used only when appropriate based on reservoir mineralogy, fluid properties, and company objectives. Other techniques, such as acidizing, are only effective in carbonate reservoirs (while the Upper and Lower Repetto are clastic reservoirs). Thermal recovery methods are suitable for heavy oil and bitumen, whereas the higher range oil gravity present within the Repetto reservoirs can be produced without additional heating.

Summary of Potential Impacts

Potential impacts to resources may include impacts on air quality; water quality; geologic resources/seismicity; benthic communities and habitats; fishes and invertebrates; marine and coastal birds; marine mammals and sea turtles; economic factors; and cultural, historical, and archaeological resources. These potential impacts will be analyzed in the Platform Gilda WST EIS.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on the resources listed above from routine air emissions, discharges and wastes, vessel traffic, noise, and lighting. Additional impacts may occur from accidental events, such as unintentional releases into the environment, response activities, or vessel strikes and collisions.

On January 20, 2025, President Donald J. Trump declared a national energy emergency and directed the heads of executive departments and agencies, including the Secretary of the Interior, to “identify and exercise any lawful emergency authorities available

to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands” (Sec. 2(a), Executive Order (E.O.) 14156, “Declaring a National Energy Emergency”). The definition of energy resources includes “crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, as defined by 30 U.S.C. 1606(a)(3)” (Sec. 8(a), E.O. 14156).

During an emergency, a Department of the Interior (Department) Responsible Official—which includes the Acting Assistant Secretary, Land and Minerals Management, can adopt alternative arrangements to comply with the National Environmental Policy Act (NEPA) before taking urgently needed actions (43 CFR 46.150). On the April 23, 2025, the Department published the “Alternative Arrangements NEPA During National Energy Emergency.”

In accordance with these alternative arrangements, BOEM will complete this EIS process within approximately 28 days. Public comments on preparation of the Platform Gilda WST EIS will be accepted during a 10-day scoping comment period. After the Platform Gilda WST EIS is completed, BOEM will make the EIS available on its website and the U.S. Environmental Protection Agency will publish a notice of availability. A decision on whether and under what circumstances to approve the supplemental DPP will be announced in a Record of Decision, as appropriate.

Scoping Process

This NOI does not announce a decision to approve activities but serves to commence the information gathering process for identifying issues and potential alternatives for consideration in the DCOR WST EIS. Comments received during the scoping period will inform the scope and content of the WST EIS. Throughout the scoping process, Tribal, Federal, State, and local governments, and the general public have the opportunity to provide input to BOEM in determining significant resources, issues, reasonable alternatives, and potential mitigation measures to be analyzed in the EIS, and to provide additional information. BOEM will consider additional information, alternatives and/or mitigation suggestions identified during

the comment period initiated by this NOI in the preparation of the WST EIS.

Cooperating Agencies

BOEM, as the lead agency, invites qualified government entities, such as Federally Recognized Tribes, other Federal agencies, and State and local governments, to consider becoming cooperating agencies for the preparation of the Platform Gilda WST EIS. Following the guidelines in Section 1.7 of the DOI NEPA Handbook and DOI’s NEPA implementing regulations at 43 CFR part 46, qualified agencies and governments are those with “jurisdiction by law or special expertise.” Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency under a 28-day timeline for EIS development and remember that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process. Upon request, BOEM will provide potential cooperating agencies with a written summary of guidelines for cooperating agencies, including time schedules, responsibilities, scope and detail of cooperating agencies’ contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a Memorandum of Understanding between BOEM and any cooperating agency. BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. For additional information about cooperating agencies, please contact Susan Zaleski, Acting Regional Supervisor, Office of Environment, BOEM (805–384–6328) or susan.zaleski@boem.gov.

Request for Comments

All interested parties, including Tribes, Federal, State, and local governments, and the general public, may submit written comments on the scope of the Platform Gilda WST EIS, significant issues, reasonable alternatives, potential mitigation measures, and the types of oil and gas activities of interest in the proposed lease sale areas. Federally recognized tribal nations wishing to comment may choose when and how to convey their input, including through the comment process described here, and they may also choose to request government-to-government consultation.

Comments that you submit in response to this NOI are a matter of public record. You should be aware that your entire comment—including your

address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. Even if BOEM withholds your personally identifiable information in the context of this NOI, your comment is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Your information will only be withheld if a determination is made that one of the FOIA exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA implementing regulations (43 CFR part 2) and applicable laws.

In order for BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. Note that BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

Authority: This NOI is published pursuant to DOI's regulations (43 CFR part 46) implementing the procedural provisions of NEPA, as amended (42 U.S.C. 4321 *et seq.*).

Matthew Giacona,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2026-05319 Filed 3-17-26; 8:45 am]

BILLING CODE 4340-98-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1232 (Enforcement II)]

Certain Chocolate Milk Powder and Packaging Thereof; Issuance of Civil Penalties and Termination of Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined to impose civil penalties for violating the Commission's cease and desist orders ("CDOs") issued on

November 18, 2024 against each of the following four defaulting enforcement respondents as follows: \$1.8 million for eighteen (18) days of violation assessed to Organic Ingredients Inc. d/b/a Namaste Plaza Indian Super Market ("Organic Ingredients") of San Diego, California; \$1.6 million for sixteen (16) days of violation assessed to New India Bazar Inc. d/b/a New India Bazar ("New India") of San Jose, California; \$200,000 for two (2) days of violation assessed to Bharat Bazar Inc. ("Bharat Bazar") of Union City, California; and \$1.7 million for seventeen (17) days of violation assessed to Coconut Hill Inc. d/b/a Coconut Hill ("Coconut Hill") of Sunnyvale, California. The enforcement proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3042. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on December 1, 2020, based on a complaint filed on behalf of Meenaxi Enterprise Inc. ("Meenaxi") of Edison, New Jersey. 85 FR 77237-38 (Dec. 1, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain chocolate milk powder and packaging thereof by reason of infringement of U.S. Trademark Registration No. 4,206,026 ("the '026 mark"). The Commission's notice of investigation named several respondents, including but not limited to Bharat Bazar; Coconut Hill; New India; and Organic Food d/b/a Namaste Plaza Indian Super Market ("Organic Food") of Fremont, California. *Id.* at 77237. The Office of Unfair Import Investigations ("OUII") was also a party to the investigation. *Id.*

In the underlying investigation, all respondents were found in default. *See* Order No. 6 (Feb. 10, 2021), *unreviewed*

by Comm'n Notice (Mar. 2, 2021); Order No. 23 (May 19, 2022), *unreviewed by* Comm'n Notice (Jun. 14, 2022). On May 24, 2021, Meenaxi moved for summary determination of violation of section 337 by the respondents found in default by Order No. 6 and requested a general exclusion order ("GEO"). On December 1, 2021, the former chief administrative law judge ("CALJ") granted the motion as an initial determination ("ID") (Order No. 15), but noted discrepancies with respect to respondent Organic Food, calling into question whether that respondent was ever properly served with the complaint and notice of investigation and with the former CALJ's order to show cause why the respondents should not be found in default, Order No. 5 (Jan. 13, 2021). *See* Order No. 15 at 1, n.1. No petitions for review of the ID were filed. The Commission determined *sua sponte* to review Order No. 15 and ordered reconsideration of Order No. 6 as to Organic Food and/or any other respondents who may not have been properly served with documents in the underlying investigation. *See* Comm'n Notice at 3 (Jan. 18, 2022). The Commission remanded the investigation to an ALJ for further proceedings. *Id.*

On remand, the current CALJ issued Order No. 18, granting Meenaxi's unopposed motion for leave to amend the complaint and notice of investigation to (i) substitute Organic Food with proposed respondent Organic Ingredients; (ii) correct the address of respondent New India; (iii) correct the address of respondent Bharat Bazar; and (iv) supplement the complaint with Exhibits 9-a, 9-b, and 9-c, concerning Organic Food and/or Organic Ingredients. Order No. 18 at 1-5 (Mar. 11, 2022), *unreviewed by* Comm'n Notice (Apr. 12, 2022); *see also* 87 FR 22940-41 (Apr. 18, 2022). Meenaxi also demonstrated that Bharat Bazar actually had been served with all of the documents in the investigation (prior to remand) despite incorrectly spelling Bharat Bazar's address as being on "Niled Road" instead of "Niles Road." *See* Order No. 18 at 4.

The CALJ conducted remand proceedings as to Organic Ingredients and New India to respond to the amended complaint and notice of investigation, and then ordered them to respond to an order to show cause why they should not be found in default. *See* Order No. 19 (Mar. 11, 2022); Order No. 21 at 2-3 (May 3, 2022). On May 19, 2022, the CALJ issued an ID finding Organic Ingredients and New India in default. Order No. 23 (May 19, 2022), *unreviewed by* Comm'n Notice (June 14, 2022). Accordingly, the Commission

found all respondents in default (collectively with the respondents previously found in default, the “Defaulting Respondents”).

Subsequently, on June 15, 2022, following the remand determination of default, Meenaxi again moved for summary determination of violation by the Defaulting Respondents and requested a GEO. On July 6, 2022, OUII filed a response supporting the motion.

On August 3, 2022, the CALJ issued a remand ID (“RID”) (Order No. 27), granting the second motion for summary determination and finding a violation of section 337 with respect to the ‘026 mark. The RID found that all Defaulting Respondents met the importation requirement and that Meenaxi satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1)–(3). No party petitioned for review of the ID.

On September 19, 2022, the Commission determined not to review the RID. *See* 87 FR 58130–32 (Sept. 23, 2022). On November 15, 2022, the Commission issued a final determination finding a violation, issuing a GEO prohibiting the unlicensed importation of chocolate milk powder and packaging thereof that infringe the ‘026 mark, and terminating the investigation. *See* 87 FR 70864–66 (Nov. 21, 2022). The GEO prohibits the unlicensed importation of “chocolate milk powder in consumer-sized container with the Bournvita label.” *Id.* That same day, the Commission issued an opinion explaining the basis for its final determination.

On November 9, 2023, the Commission determined to institute an enforcement proceeding (“Enforcement I”) under Commission Rule 210.75 to investigate alleged violations of the GEO by four respondents: (1) Organic Ingredients; (2) New India; (3) Bharat Bazar; and (4) Coconut Hill (collectively the “Enforcement Respondents”). *See* 88 FR 78786–87 (Nov. 16, 2023); 89 FR 15220 (Mar. 1, 2024). OUII was also named as a party. *Id.*

On January 10, 2024, the presiding ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the enforcement complaint and notice of investigation. *See* Enforcement I, Order No. 6 (Jan. 10, 2024). Enforcement I, Order No. 6, directed the Enforcement Respondents to make any showing of good cause by no later than February 2, 2024. *Id.* at 3. No party responded to Order No. 6. *See* Enforcement I, Order No. 8 at 1 (Feb. 13, 2024).

On March 14, 2024, the Commission determined that the four Enforcement Respondents were in default. *See* Order No. 8 (Feb. 13, 2024), *unreviewed by* Comm’n Notice (Mar. 14, 2024). On March 15, 2024, Meenaxi filed a motion requesting summary determination of violation of the GEO and the issuance of CDOs against the four Enforcement Respondents. *See* Enforcement I, Initial Determination (“EID–1”) at 5.

On August 16, 2024, the ALJ granted Meenaxi’s motion and recommended issuance of CDOs. *See* Enforcement I, Order No. 9 (Aug. 16, 2024). On November 18, 2024, the Commission issued a final determination finding that all four Enforcement Respondents had violated the GEO and issued CDOs against each of the four Enforcement Respondents. 89 FR 92,722–723 (Nov. 22, 2024).

On February 24, 2025, Meenaxi filed a complaint requesting that the Commission institute a second enforcement proceeding to investigate alleged violations of the GEO and CDOs by the same four Enforcement Respondents: (1) Organic Ingredients; (2) New India; (3) Bharat Bazar; and (4) Coconut Hill Inc. *See* EID at 5. On March 26, 2025, the Commission determined to institute an enforcement proceeding under Commission Rule 210.75 to investigate alleged violations of the GEO and CDOs by the four Enforcement Respondents. *See* 90 FR 14,381–382 (Apr. 1, 2025). OUII is also named as a party. *Id.* Meenaxi filed proof that the notice and enforcement complaint were served on each of the four Enforcement Respondents. *See* July 29, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 857933.

On May 9, 2025, the ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the second enforcement complaint and notice of investigation. Enforcement II, Order No. 5 (May 9, 2025). Order No. 5 directed the Enforcement Respondents to make any showing of good cause by no later than June 13, 2025. *Id.* at 3. No party responded to Order No. 5, the show-cause order. Meenaxi filed proof that Order No. 5 was served on each of the four Enforcement Respondents. *See* May 19, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 851448, 851447. On July 15, 2025, the Commission determined that the four Enforcement Respondents were in default. Order No. 6 (June 16, 2025), *unreviewed by* Comm’n Notice (July 15, 2025). Meenaxi filed proof that Order No. 6 was served on each of the four

Enforcement Respondents. *See* July 29, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 857933.

On July 10, 2025, Meenaxi filed a motion for summary determination of violation of the GEO and CDOs by the four Enforcement Respondents and requested issuance of civil penalties against the four Enforcement Respondents. *See* EID at 6. Meenaxi argued that the Enforcement Respondents have violated the Commission’s GEO and CDOs by continuing to import, sell for importation, advertise, market, distribute, offer to sell, and sell the “Bournvita” products that infringe the ‘026 mark. EID at 18.

On December 15, 2025, the presiding ALJ issued the subject EID (Order No. 9), granting Meenaxi’s motion and recommending issuance of the requested civil penalties. The ALJ concluded that the un rebutted evidence demonstrates that the Enforcement Respondents have imported and/or sold after importation chocolate milk powder products bearing the “Bournvita” label in violation of the GEO and CDOs. The ALJ recommended that the Commission issue civil penalties against the four defaulting enforcement respondents. No party filed a petition seeking review of EID.

On January 27, 2026, the Commission determined not to review the EID and requested briefing on the recommended remedy. 81 FR 4108–110 (Jan. 30, 2026).

Having examined the record in this enforcement proceeding, including the EID/RD and the parties’ submissions, the Commission has determined to impose a penalty of \$100,000, the maximum available in this investigation, for each day that each of the four defaulting Enforcement Respondents violated the respective CDOs. The resulting penalties are as follows: \$1.8 million for eighteen (18) days of violation assessed to Organic Ingredients; \$1.6 million for sixteen (16) days of violation assessed to New India; \$200,000 for two (2) days of violation assessed to Bharat Bazar; and \$1.7 million for seventeen (17) days of violation assessed to Coconut Hill. The enforcement proceeding is hereby terminated.

The Commission’s vote on this determination took place on March 16, 2026.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 16, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–05310 Filed 3–17–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of UL LLC, for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before April 2, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2009–0025). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Submission of comments: You may submit comments and attachments, identified by Docket No. OSHA–2009–0025, electronically at www.regulations.gov, which is the Federal e-Rulemaking Portal. Follow the online instructions for making electronic submissions. The Federal e-Rulemaking Portal at www.regulations.gov is the only way to submit comments on this Notice.

Docket: To read or download comments or other material in the

docket, go to <http://www.regulations.gov>. Documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before April 2, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that UL LLC (UL), is applying for an expansion of current recognition as a NRTL. UL requests the addition of one test site to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-

certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition, as well as for an expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details that NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

UL currently has fifty-seven facilities (site) recognized by OSHA for product testing and certification, with the headquarters located at: UL LLC, 333 Pfingsten Road, Northbrook, Illinois 60062. A complete list of UL sites recognized by OSHA is available at <https://www.osha.gov/dts/otpc/nrtl/ul.html>.

II. General Background on the Application

UL submitted an application, dated October 30, 2023 (OSHA–2009–0025–0079), to expand recognition as a NRTL to include one additional test site located at: Certification Entity for Renewable Energies (CERE), S.L., C/ Monturiol, 15. Getafe, Madrid, 28906, Spain. OSHA staff performed a review of UL's testing facilities at CERE Madrid on June 17–18, 2025, in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. UL has addressed these issues sufficiently, and OSHA staff has preliminarily determined that OSHA should grant the application.

III. Preliminary Finding on the Application

UL submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file and pertinent documentation preliminarily indicates that UL can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the additional test site at CERE Madrid.

This preliminary finding does not constitute an interim or temporary approval of UL's application.

OSHA seeks public comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether UL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibit identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA-2009-0025 (for further information, see the "Docket" heading in the section of this notice titled ADDRESSES).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant UL's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7-2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on March 16, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-05323 Filed 3-17-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240-0021]

Proposed Revision of a Currently Approved Information Collection: OWCP 1168 Provider Enrollment Form.

AGENCY: Office of Workers' Compensation Programs, (OWCP), Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs, Department of Labor, (OWCP) is soliciting comments on the information collection for 1240-0021, OWCP 1168 Provider Enrollment Form.

DATES: All comments must be received on or before May 18, 2026.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for WCPO-2026-0133. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social

Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL-OWCP, Office of Workers' Compensation: 200 Constitution Avenue NW, Room S3524, Washington, DC 20210.

- OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Anjanette Suggs, Office of Workers' Compensation Programs (OWCP) at suggs.anjanette@dol.gov (email); (202) 354-9660 (phone).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.*, the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.*, the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.*, and the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.* These statutes require OWCP to pay for appropriate medical and vocational rehabilitation services provided to beneficiaries. In order for OWCP's billing contractor to pay providers for these services with its bill processing system, providers must enroll with one or more of the OWCP programs that administer the statutes by submitting certain profile information, including identifying information, tax I.D. information, and whether they possess specialty or sub-specialty training. Form OWCP-1168 is used to obtain this information from each provider.

If this information is not obtained before the provider submits his or her first bill for payment, the bill payment process is substantially prolonged and increases the burden on providers. The regulations implementing the above statutes that OWCP administers permit the collection of information necessary to allow its billing contractor to process and pay bills submitted by providers of medical and vocational rehabilitation services. (20 CFR 10.801, 30.701, 725.704, 725.705 and 725.714).

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the OWCP 1168 Provider Enrollment Form. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of CEO's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Documents related to this information collection request are available at <https://regulations.gov>. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns the OWCP 1168 Provider Enrollment Form. OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Revision of a currently approved collection.

Agency: Office of Workers' Compensation Programs, OWCP.

OMB Number: 1240-0021.

Affected Public: Public Sector.

Number of Respondents: 18,417.

Number of Responses: 18,417.

Annual Burden Hours: 8,901.55 hours.

Annual Respondent or Recordkeeper Cost: \$0.00.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and

will be available at <https://www.reginfo.gov>.

Anjanette Suggs,
Certifying Officer.

[FR Doc. 2026-05321 Filed 3-17-26; 8:45 am]

BILLING CODE 4510-CR-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370; NRC-2026-1322]

Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request dated August 18, 2025, from Duke Energy Carolinas, LLC, to allow the use of AXIOM® fuel cladding at McGuire Nuclear Station, Units 1 and 2. Current NRC regulations limit applicability to the use of fuel rod cladding with zircaloy or ZIRLO™.

DATES: The exemption was issued on March 10, 2026.

ADDRESSES: Please refer to Docket ID NRC-2026-1322 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1322. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The exemption request dated August 18, 2025 is available in ADAMS under Accession No. ML25230A072.

- *NRC's PDR:* The PDR, where you may examine and order copies of

publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Klos, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5136; email: John.Klos@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

For the Nuclear Regulatory Commission.

Dated: March 16, 2026.

Lee Klos,

Project Manager, Plant Licensing Branch II-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket No. 50-369, 50-370; Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Exemption

I. Background

Duke Energy Carolinas, LLC (Duke Energy, the licensee) is the holder of Renewed Facility Operating License Nos. NPF-9 and NPF-17, for McGuire Nuclear Station, Units 1 and 2 (McGuire). The RFOL provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

McGuire, Units 1 and 2, consists of a pressurized-water reactor located at the licensee's site in Mecklenburg County, North Carolina.

II. Request/Action

By application dated August 18, 2025 Agencywide Documents Access and Management System (ADAMS), Accession No. ML25230A072, the licensee, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.12, "Specific exemptions," requested an exemption from certain requirements of 10 CFR 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," to allow the use of AXIOM® fuel cladding at McGuire.

The regulations in 10 CFR 50.46 are currently limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding. The special circumstances associated with the exemption request are that application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

III. Discussion

The regulation in 10 CFR 50.46(a)(1)(i) states, in part, that:

each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or

ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents [LOCA] conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated.

Since 10 CFR 50.46 specifically refers to fuel with zircaloy or ZIRLO™ cladding, its application to fuel clads with materials other than zircaloy or ZIRLO™ requires an exemption from this section of the regulations.

The exemption request from the licensee relates solely to the types of fuel cladding materials specified in these regulations. As written, the regulations specify the use of zircaloy or ZIRLO™ cladding. Thus, an exemption to 10 CFR 50.46 is necessary to use cladding materials (*i.e.*, AXIOM®), other than zircaloy or ZIRLO™ cladding. The licensee's request does not propose to exempt McGuire from any other requirements of 10 CFR 50.46 regarding acceptance criteria, evaluation model features and documentation, reporting of changes or errors, etc.

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from requirements of 10 CFR part 50 when: (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) special circumstances are present. Under 10 CFR 50.12(a)(2), special circumstances are present when at least one of the following six conditions are met:

(i) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission; or

(ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or

(iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or

(iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption; or

(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation; or

(vi) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

The licensee's proposed exemption request which would permit application of the

requirements of 10 CFR 50.46 to fuel rods clad with AXIOM® at McGuire identifies, in particular, that the special circumstance associated with this exemption request is that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

The technical basis for the use of fuel cladding with AXIOM® in Pressurized Water Reactors (PWRs) is documented in Topical Report (TR) WCAP-18546NP-A, Revision 0, "Westinghouse AXIOM® Cladding for Use in Pressurized Water Reactor Fuel," March 2023 (ML23089A066). This TR describes Westinghouse's evaluation for the use of the AXIOM® alloy in PWR fuel assemblies as a replacement for ZIRLO™ and Optimized ZIRLO™. This TR discusses material properties of AXIOM®, as well as its behavior under normal operation, anticipated transients, and postulated accident conditions.

As identified in TR WCAP-18546NP-A, Revision 0, the AXIOM® alloy is a proprietary niobium-bearing variant of zirconium. This material also has tin, vanadium, and copper as alloying elements. Westinghouse stated that the AXIOM® alloy was developed to provide enhanced performance with respect to corrosion, hydrogen pickup, growth, and creep. While demonstrating relevant differences in certain material properties and physical behavior, TR WCAP-18546NP-A, Revision 0 identifies that the basic physical properties of AXIOM® are similar to ZIRLO™.

In TR WCAP-18546NP-A, Revision 0, Section C, Submittal of Topical Report, Sections 3.11, "Post Quench Ductility," 3.12, "Breakaway Oxidation," and 6.2.1.4, "Fuel Clad Wear," Westinghouse states the rationale for concluding that each of the acceptance criteria in 10 CFR 50.46 is applicable to fuel clad with AXIOM®.

As documented in its safety evaluation on TR WCAP-18546NP-A, Revision 0, Section A, the NRC staff concluded that the criteria of 10 CFR 50.46 are acceptable for the application of AXIOM® cladding. The TR's Section A also states the technical basis for the NRC staff's conclusions in support of the AXIOM® alloy is the testing and analysis that Westinghouse had performed. Despite finding application of 10 CFR 50.46 to AXIOM® acceptable from a technical perspective, current regulations in 10 CFR 50.46 are limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding; therefore, an exemption for use of a new cladding material (such as AXIOM®), is required.

A. The Exemption Is Authorized by Law

The NRC has the authority under 10 CFR 50.12 to grant exemptions from the requirements of 10 CFR part 50 if the justification demonstrates it is authorized by law. The AXIOM® fuel that will be irradiated at McGuire is clad with a zirconium-based alloy that is not expressly within the scope of 10 CFR 50.46. However, the NRC staff considers all other aspects of these regulations (*e.g.*, acceptance criteria, prescribed methods, reporting requirements) applicable to the AXIOM® cladding material, and the licensee states that it will ensure that

these regulations are satisfied for operation with fuel clad with AXIOM®. The NRC staff determined that granting the exemption from 10 CFR 50.46 related to AXIOM®, which is neither zircaloy nor ZIRLO™, will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk To Public Health and Safety

In its submittal dated August 18, 2025, the licensee stated,

The reload evaluations will ensure that acceptance criteria are met for future reload cores after the transition to fuel rods clad with AXIOM material. Fuel assemblies using AXIOM fuel rod cladding will be evaluated using NRC-approved analytical methods and plant-specific models to address the changes in the cladding material properties. The safety analyses for CNS U1 and MNS are supported by the applicable site-specific TSs [Technical Specifications]. Reload cores are required to be operated in accordance with the operating limits specified in the TSs. Thus, the granting of this exemption request will not pose an undue risk to public health and safety.

The NRC staff's previous review of TR WCAP-18546NP-A, Revision 0, which concerns the properties of the AXIOM® alloy, provides assurance that predicted chemical, thermal, and mechanical characteristics of AXIOM®-alloy cladding are acceptable under normal operation, anticipated transients, and postulated accidents. The NRC staff finds that by utilizing the methods and properties stated in TR WCAP-18546NP-A, Revision 0, Section A the licensee meets the acceptance criteria and analytical methods in 10 CFR 50.46, and thus, ensures acceptable safety margins for fuel clad with AXIOM® that are consistent with those the Commission has established for zircaloy and ZIRLO™. McGuire's cores involving AXIOM® cladding will continue to be subject to the operating limits specified in the technical specifications and core operating limits report. The licensee will manage core reloads of fuel with AXIOM® cladding using NRC-approved analytical methods and plant TS. Thus, granting this exemption request will not pose undue risk to public health and safety.

C. The Exemption Is Consistent With the Common Defense and Security

The exemption will allow the licensee to use an enhanced fuel rod cladding material relative to the zircaloy material for which the requirements of 10 CFR 50.46 were originally established. The NRC staff concluded in TR WCAP-18546NP-A, Revision 0, Section A that the use of AXIOM® fuel rod cladding at McGuire will not significantly affect plant operations and is therefore consistent with the common defense and security. Further, the exemption does not involve security requirements and does not create a security risk. Special nuclear material in these fuel assemblies will be controlled using NRC-approved analytical methods, plant-specific models, and approved station procedures. Therefore, the exemption is consistent with the common defense and security.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 is to establish acceptance criteria for ECCS performance.

The regulations in 10 CFR 50.46 do not explicitly apply to fuel clad with AXIOM®. However, the underlying purpose of 10 CFR 50.46 is to provide requirements capable of ensuring adequate core cooling during and after the most limiting postulated LOCA. As discussed above, Westinghouse has demonstrated in an NRC-approved TR (*i.e.*, TR WCAP-18546NP-A) that application of the acceptance criteria and analytical methods required in 10 CFR 50.46 to fuel cladding with AXIOM® is acceptable. For the maximum local oxidation limit in 50.46(b)(2), Westinghouse meets the 17 percent limit in the rule for cladding without any hydrogen but further justified the use of an alternative limit that the NRC finds acceptable for maintaining post quench ductility during a postulated LOCA. The licensee stated that the McGuire LOCA analysis for the fuel assemblies with AXIOM® cladding was performed using the Full Spectrum LOCA evaluation model and adheres to the limitations of the associated topical reports. Therefore, strict application of the material-specific requirements for fuel cladding in 10 CFR 50.46 is not necessary to achieve the underlying purpose of ensuring adequate core cooling in this instance. Furthermore, granting an exemption to allow application of the balance of these regulations for fuel cladding with AXIOM® at McGuire, Units 1 and 2, would be consistent with the underlying regulatory purpose.

E. Environmental Considerations

The exemption requested by the licensee includes changes to requirements with respect to installation or use of a facility component located within the restricted area. The NRC staff determined that the exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9) because the granting of this exemption involves: (i) no significant hazards consideration, (ii) no significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, and (iii) no significant increase in individual or cumulative occupational radiation exposure. Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's consideration of this exemption request. The basis for the NRC staff's determination of each of the requirements in 10 CFR 51.22(c)(9) is discussed below.

Requirements in 10 CFR 51.22(c)(9)(i)—There Is No Significant Hazards Consideration

The NRC staff evaluated the issue of no significant hazards consideration using the standards described in 10 CFR 50.92(c), as presented below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed exemption to allow the use of AXIOM® fuel rod cladding does not involve a significant increase in the probability or consequences of an accident previously evaluated.

For the set of previously evaluated accidents, their probability is governed by the failure or malfunction of equipment or components other than the fuel rod cladding. The fuel rod cladding itself is not an accident initiator and does not affect the accident probability. Therefore, the change in fuel rod cladding material does not affect the probability of previously evaluated accidents. The proposed exemption does not involve a significant increase in the consequences of previously evaluated accidents. This conclusion is demonstrated by the analysis submitted by the licensee in support of the proposed use of AXIOM® cladding that the NRC staff has reviewed in support of the proposed license amendment. The licensee's analysis shows that fuel clad with AXIOM® material performs comparably to fuel cladding materials that have been used previously. This satisfies the acceptance criteria in 10 CFR 50.46(b) for the LOCA event.

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of AXIOM® fuel rod cladding does not create the possibility of a new or different kind of accident from any previously evaluated. The fuel rod cladding is not an accident initiator. The use of AXIOM® cladding has been assessed by the licensee and vendor, and it has been found to exhibit comparable or enhanced behavior relative to the zircaloy and ZIRLO™ cladding material specifically identified in 10 CFR 50.46. The NRC staff has previously reviewed this information in its safety evaluation approving TR WCAP-18546NP-A. Use of Westinghouse fuel with AXIOM® cladding in the McGuire reactor cores is compatible with the plant design and does not introduce any new safety functions for plant structures, systems, or components. Furthermore, the introduction of AXIOM® cladding does not affect any accident mitigation systems and does not introduce any new accident initiation methods.

Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No.

The proposed exemption does not involve a significant reduction in the margin of safety. The licensee's analysis of the spectrum of postulated LOCA events for fuel rods clad with AXIOM® exhibits results

comparable to those for the fuel currently in use at McGuire for the small-break and the large-break LOCA events. Furthermore, the fuel vendor has generically evaluated the performance of AXIOM® cladding relative to the zircaloy cladding specifically identified in 10 CFR 50.46. The vendor concluded that the performance of the AXIOM® cladding material is quite similar to or enhanced relative to the ZIRLO™ cladding material. The NRC staff has performed a review of these conclusions and documented in its safety evaluation on TR WCAP-18546NP-A that the AXIOM® material properties and mechanical design methodology are in accordance with applicable regulations and regulatory guidance.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

The NRC staff concludes that the proposed exemption presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified (*i.e.*, satisfies the provision of 10 CFR 51.22(c)(9)(i)).

Requirements in 10 CFR 51.22(c)(9)(ii)—There Is No Significant Change in the Types or Significant Increase in the Amounts of Any Effluents That May Be Released Offsite

The proposed exemption would allow the use of AXIOM® fuel rod cladding material in the reactors. AXIOM cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO™ cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly change the types of effluents, nor significantly increase the amount of effluents that may be released offsite. Therefore, the provision of 10 CFR 51.22(c)(9)(ii) is satisfied.

Requirements in 10 CFR 51.22(c)(9)(iii)—There Is No Significant Increase in Individual or Cumulative Occupational Radiation Exposure

The proposed exemption would allow the use of the AXIOM® fuel rod cladding material in the reactors. AXIOM® cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO™ cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly increase individual occupational radiation exposure, or significantly increase cumulative occupational radiation exposure. Therefore, the provision of 10 CFR 51.22(c)(9)(iii) is satisfied.

The NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's proposed granting of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the

common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Duke Energy Carolinas, LLC's request for an exemption from the specific requirements of 10 CFR 50.46 for use of AXIOM® fuel rod cladding.

This exemption is effective upon issuance.

Dated: March 10, 2026.

For the Nuclear Regulatory Commission.
/RA/

Aida Rivera-Varona,
*Acting Director Division of Operating Reactor
Licensing, Office of Nuclear Reactor
Regulation.*

[FR Doc. 2026-05254 Filed 3-17-26; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255; NRC-2026-1354]

Palisades Energy, LLC; Palisades Nuclear Plant; Exemption

AGENCY: Nuclear Regulatory
Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request dated February 13, 2026, as supplemented by letters dated February 27, 2026, March 4, 2026, and March 9, 2026, from Palisades Energy, LLC. The exemption authorizes a one-time exemption for the Palisades Nuclear Plant to allow the use of the less restrictive work hour limitations described in the NRC regulations for a 60-day period starting on March 13, March 16, March 30, and April 4, 2026, for various covered individuals as described in the exemption.

DATES: The exemption was issued on March 13, 2026.

ADDRESSES: Please refer to Docket ID NRC-2026-1354 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-1354. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION** **CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at

<https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The exemption request to authorize a one-time exemption for the Palisades Nuclear Plant to allow the use of the less restrictive work hour limitations is available in ADAMS under Accession No. ML26044A123. The supplements are available under Accession Nos. ML26058A024, ML26063A922, and ML26068A292, respectively.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Marlayna V. Doell, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3178; email: Marlayna.Doell@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: March 16, 2026.

For the Nuclear Regulatory Commission.

Marlayna Doell,

*Project Manager, Plant Licensing Branch III,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.*

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

**Docket No. 50-255; Palisades Energy, LLC;
Palisades Nuclear Plant; Exemption**

I. Background

Palisades Energy, LLC (Palisades Energy, the licensee), is the holder of Renewed Facility Operating License No. DPR-20, which authorizes operation of the Palisades Nuclear Plant (Palisades). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. The facility consists of one pressurized-water reactor located in Van Buren County, Michigan.

I. Request/Action

By letter dated February 13, 2026 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML26044A123), as supplemented by letters dated February 27, 2026 (ML26058A024), March 4, 2026 (ML26063A922), and March 9, 2026 (ML26068A292), the licensee requested a

one-time exemption from the work hour requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, "Fitness for Duty Programs," Section 26.205, "Work hour controls," Paragraph (d), pursuant to 10 CFR 26.9, "Specific exemptions." Specifically, the licensee requested to use the outage work hour controls in 10 CFR 26.205(d)(4) in lieu of the non-outage work hour controls described in 10 CFR 26.205(d)(3) and (d)(7) for various periods of no more than 60 days, or until Palisades is connected to the electrical grid, whichever occurs first, for individuals specified in Paragraphs (a)(2) and (a)(4) of 10 CFR 26.4, "FFD [Fitness for duty] program applicability to categories of individuals." Within the request, as supplemented, the licensee requested one 60-day period; however, the starting dates for the period vary between the projects and groups of covered individuals. Personnel supporting the Fuel Handling Equipment (FHE) and Tesco projects will begin their 60-day period on March 13 and March 16, 2026, respectively. Health Physics personnel will begin their 60-day period on March 30, 2026, and personnel supporting all other restart activities will begin their 60-day period on April 4, 2026.

This exemption request follows the licensee's previously approved two exemption periods from the same work hour requirements. The first exemption period started on November 3, 2025, and expired on January 1, 2026. The second exemption period started on January 6, 2026, and expired on March 6, 2026.

Section 26.205(d)(3) of 10 CFR requires licensees to comply with the requirements for individuals to have a minimum number of days off per week depending on the duration of shift schedules, averaged over the shift cycle, and the duties being performed. Individuals working 8-hour shift schedules shall have at least 1 day off per week, and individuals who are working 10-hour shift schedules shall have at least 2 days off per week. Individuals working 12-hour shift schedules while performing the duties described in 10 CFR 26.4(a)(1) through (a)(3) shall have at least 2.5 days off per week and individuals working 12-hour shift schedules while performing duties described in 10 CFR 26.4(a)(4) shall have at least 2 days off per week. Section 26.205(d)(7) of 10 CFR, requires licensees to comply with the requirements for maximum average work hours wherein individuals may not work more than a weekly average of 54 hours, calculated using an averaging period of up to 6 weeks, which advances by 7 consecutive calendar days at the finish of every averaging period. The licensee seeks a one-time exemption from the requirements of 10 CFR 26.205(d)(3) and (d)(7).

The requirements in 10 CFR 26.205(d)(4) provide that during the first 60 days of a unit outage, licensees need not meet the requirements of 10 CFR 26.205(d)(3) or (d)(7) for individuals specified in 10 CFR 26.4(a)(1) through (a)(4), while those individuals are working on outage activities. However, 10 CFR 26.205(d)(4) does require the licensee to ensure individuals specified in 10 CFR 26.4(a)(1) through (a)(3) have at least 3 days

off in each successive (*i.e.*, non-rolling) 15-day period, and that the individuals specified in 10 CFR 26.4(a)(4) have at least 1 day off in any 7-day period. This is collectively known as the outage minimum days off (MDO) requirement.

On July 24, 2025, the NRC issued a series of licensing and regulatory actions approving the licensee's request to reauthorize power operations at Palisades and return the plant to an operational status, including the Power Operations Technical Specifications (ML25157A127). The licensee implemented the power operations license, the final safety analysis report (FSAR), and the Power Operations Technical Specifications on August 25, 2025. Further, on August 25, 2025, Palisades transitioned directly into an outage under the Power Operations Technical Specifications to restore the plant for restart.

On October 24, 2025 (ML25293A007), the NRC approved an initial request by the licensee for an exemption to use the work hour requirements in 10 CFR 26.205(d)(4) in lieu of the non-outage work hour controls described in 10 CFR 26.203(d)(3) and (d)(7) for a period of no more than 60 days. With consideration of the additional mitigating actions, the NRC approved the exemption to support the extended use of the less restrictive outage work hour limits at Palisades for a 60-day period from November 3, 2025, through January 1, 2026, following the initial usage of the outage work hour limits starting from entry of the outage period on August 25, 2025, through the 60-day period permitted by 10 CFR 26.205(d)(4), which ended on October 23, 2025.

On January 5, 2026, the NRC approved a second request by the licensee for an exemption to use the work hour requirements in 10 CFR 26.205(d)(4) in lieu of the non-outage work hour controls described in 10 CFR 26.205(d)(3) and (d)(7) to support plant restart activities (ML26002A079). The licensee submitted two supplemental letters with additional mitigating actions dated December 26 and 31, 2025 (ML25360A002 and ML25365A936, respectively). The NRC staff determined that the proposed mitigating actions for the second exemption request would adequately manage acute and cumulative fatigue for personnel supporting plant restart activities. The NRC approved the exemption to use the less restrictive outage work hour limits at Palisades for a 60-day period from January 6, 2026, through March 6, 2026, following both the initial outage period and the first exemption period's usage of the outage work hour limits which expired on January 1, 2026.

The licensee submitted this third request for an exemption to use the work hour requirements in 10 CFR 26.205(d)(4) in lieu of the non-outage work hour controls described in 10 CFR 26.205(d)(3) and (d)(7) on February 13, 2026. The licensee stated that the period needed to support the restart activities was re-assessed and a third exemption was needed. The licensee stated this third one-time exemption will allow for more flexibility in the scheduling of covered work tasks and individual work hours as the Palisades restart effort continues. The licensee proposed mitigating actions

discussed in the "Mitigating Strategy" section of the Enclosure to the February 13, 2026, submittal letter, and as supplemented by the response to the NRC's request for additional information (RAI) dated February 27, 2026, and the supplemental letters dated March 4, 2026, and March 9, 2026.

II. Discussion.

Pursuant to 10 CFR 26.9, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 26 when the exemptions are authorized by law and will not endanger life or property or the common defense and security; and are otherwise in the public interest.

A. The Exemption is Authorized by Law

The proposed exemption would authorize a one-time exemption from the requirements of 10 CFR 26.205(d)(3) and (d)(7) to allow the use of the less restrictive work hour controls in 10 CFR 26.205(d)(4) for up to an additional 60 days, starting on March 13, March 16, March 30, or April 4, 2026, for specific project groups to allow the completion of plant restart activities at Palisades without violating NRC regulations. As stated, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR part 26. The NRC staff has determined that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, other laws, or the Commission's regulations. Therefore, the exemption is authorized by law.

B. The Exemption Will Not Endanger Life or Property

The purpose of Subpart I, "Managing Fatigue," of 10 CFR part 26 is to ensure that worker fatigue does not compromise the abilities of individuals to perform their duties safely and competently. The purpose of 10 CFR 26.205(d)(4) is to provide licensees flexibility for a limited period in scheduling required days off while accommodating more intense work schedules associated with a unit outage.

During the proposed exemption period, personnel as described in 10 CFR 26.4(a)(2) and (a)(4) would be permitted to work in accordance with the outage MDO requirements in 10 CFR 26.205(d)(4) for various 60-day periods. In its February 13, 2026, submittal, the licensee's proposed mitigating strategy consisted of reducing the number of covered workers as compared to the second exemption period, committing individuals associated with certain projects to a rest and reset period¹ prior to the proposed third exemption period, and supervisory identification and assessment for fatigue and mental alertness in covered workers. The licensee proposed a 21-day rest and reset period where personnel identified in 10 CFR 26.4(a)(2) as Chemistry and 10 CFR 26.4(a)(4) as Maintenance and Projects, except individuals supporting the FHE and Tesco projects, would work no more than a maximum of 50 hours per week during the

21-day period. The licensee proposed a 29-day rest and reset period for individuals identified in 10 CFR 26.4(a)(2) as Health Physics supporting the plant restart and individuals identified in 10 CFR 26.4(a)(4) supporting the FHE project to work no more than a maximum of 50 hours per week during the 29-day period. The licensee proposed a 22-day rest and reset period for individuals identified in 10 CFR 26.4(a)(4) supporting the Tesco project to work no more than a maximum of 50 hours per week during the 22-day period.

The NRC staff reviewed the proposed mitigating actions and determined that they were not sufficient to prevent or mitigate cumulative fatigue for individuals covered by 10 CFR 26.4(a)(2) and (a)(4) during the exemption period. The proposed measures did not provide reasonable assurance of enhanced fatigue management, especially given that this is a third exemption request and those workers subject to 10 CFR 26.4(a) have been transitioning in and out of outage work hour controls for nearly 6 months, with only brief periods of normal work hours. By letter dated February 23, 2026 (ML26058A327), the NRC staff issued a RAI to the licensee requesting an explanation of how the proposed actions would mitigate cumulative fatigue, and what additional actions the licensee could provide to justify a third exemption request for another 60-day period of less restrictive work hour controls.

The licensee submitted its response to the RAI on February 27, 2026 (ML26058A024). In response to the NRC's concerns about cumulative fatigue across all individuals covered by the exemption, the licensee proposed an additional minimum of 4 consecutive days off between March 7, 2026, and May 26, 2026, for the following groups, in addition to a 21-day rest and reset period working no more than 50 hours per week between the second and third exemptions: Health Physics, Mechanical Maintenance, Electrical Maintenance, Instrumentation and Controls Maintenance, and Mechanical Seconded Millwrights. The licensee asserts that these 4 consecutive days off would align with the intent of 10 CFR 26.23(e), "Performance objectives."

Additionally, in the RAI dated February 27, 2026, the licensee identified that individuals in 10 CFR 26.4(a)(4) assigned to the Arc Pipefitters group began performing work on safety significant systems, structures, and components (SSCs) during the last week of October 2025, followed by 10-hour shifts with weekends off during November 2025. These individuals did not transition to outage work hour controls until December 8, 2025, and were not included in the groups working during the initial outage period that started August 25, 2025. The licensee asserts that the 21-day rest and reset period from March 7, 2026, to March 27, 2026, would be effective in mitigating cumulative fatigue for the Arc Pipefitters group.

The licensee placed the individuals assigned to the Tesco and FHE project groups on a reset and reset period that started on February 15, 2026, through March 8, 2026. The licensee stated that these groups had shorter periods using the extended outage

¹ The NRC staff notes that the term "rest and reset period" in this exemption refers to a period in which individuals are still available to work up to a maximum of 50 hours per week.

work hour controls than the rest of the onsite population before transitioning into their respective rest and reset periods. The Tesco Projects group used 40 days of the second exemption period before transitioning to a rest and reset period on February 15, 2026, and FHE used only 33 days of the second 60-day exemption period before transitioning to a rest and reset period on February 8, 2026. The licensee asserts that these 22-day and 29-day rest and reset periods would be effective in mitigating cumulative fatigue for these two groups.

In response to the NRC's concern about cumulative fatigue for the personnel identified in 10 CFR 26.4(a)(2) as Health Physics, the licensee increased the rest and reset period commitment associated with the proposed exemption request. These personnel were originally observing a 29-day rest and reset period that started on February 15, 2026, through March 15, 2026. The licensee increased the rest and reset period commitment for the Health Physics group of no more than 50 hours maximum per week from 29 days to 43 days starting from February 15, 2026, through March 29, 2026. The licensee asserts that these mitigating strategies provide assurance that the effects of cumulative fatigue will be minimized.

Palisades has been in an outage status since August 25, 2025, with multiple 60-day periods of outage work hour controls. Therefore, the NRC staff asked the licensee to develop a fatigue recovery and monitoring plan to address the ongoing extended outage period, the extended use of outage work hour controls, and the associated cumulative fatigue through the end of the outage and prior to the startup of the plant. To address the continued accrual of fatigue accumulation, Palisades Energy will direct leadership to evaluate schedules and provide additional time off during the exemption period, implement a bi-weekly site-wide communication emphasizing fatigue management and self-declaration, and ensure any individual determined to be fatigued will be removed from work until a break of 10 hours has been provided or a fatigue assessment determines the individual is fit to return to their covered duties.

To monitor ongoing fatigue risk using performance indicators, the licensee stated that supervisors are required, during outages, to complete 10 safety observations per month using the Behavioral Safety Observation form, which addresses human performance. The licensee added that field supervision of these observations would continue to be performed with an emphasis on human performance. The licensee noted that the site is committed to using the CARE-5 performance tool. Specifically, the CARE-5 "Take a Minute" topic is included in the Behavioral Safety Observation Form and addresses fitness for duty and fatigue. The licensee stated that it will direct field supervisors to dedicate a portion of their weekly observations to fatigue management. In addition, the licensee will monitor the observation program and corrective action program for predictive indicators such as human performance errors, near-misses, or other trends which could indicate an increased risk of accidents, injuries, or errors of omission or commission.

In the previous exemption approved by the NRC on January 5, 2026, the licensee provided a commitment in the supplement and RAI response which stated that Palisades Energy would enhance their Human Performance Program error prevention tools to include self-awareness of fatigue as a potential proficiency obstacle that will be assessed during pre-job briefings. For the current exemption request, the NRC staff asked the licensee to confirm if this change was a temporary enhancement or permanent enhancement to their Human Performance Program. The licensee confirmed that this was a permanent change to the Human Performance Program.

The NRC staff evaluated the third proposed exemption, work schedules, mitigating actions, and the information provided in the RAI response. Based on the information provided in the submittal, as supplemented, all individuals in 10 CFR 26.4(a)(2) and (a)(4) that this exemption applies to have, at a minimum, adhered to the outage work hour requirements in 10 CFR 26.205(d)(4). The licensee provided information that demonstrated that during the second exemption period, from January 3, 2026, through February 28, 2026, of the 17 positions, 6 (Chemistry, Champion Electricians, Champion Projects Day and Night, Champion Boilermakers, and Champion Pipefitters) have maintained a schedule at or near 54 hours per week with some individuals in those positions exceeding 54 hours per week. During the same period, the remaining 11 positions exceeded 54 hours per week or worked at the maximum of 72 hours per week. The NRC staff determined that these 11 positions would be at the highest risk for cumulative fatigue if the proposed exemption was granted.

Palisades has been in an outage status since August 2025 implementing outage work hour controls for 60 days during the initial outage, 46 out of the 60 days permitted during the first exemption, and 60 days during the subsequent exemption, not including the rest and reset periods between those 3 periods. There are approximately 195 days over the time period from August 25, 2025, through March 6, 2026. Not including the rest and reset periods, the individuals assigned to projects during this proposed exemption period will have had the ability to work up to 72 hours per week for 166 of the 195 days, which is over 85 percent of the time since Palisades activated its Power Operations License. The NRC staff note that Palisades Energy has utilized the outage work hour controls for a greater period of time than non-outage work hour controls and consider the duration and successive nature of the exemption requests to result in the continued increase in cumulative fatigue which can degrade an individual's ability to safely and competently perform their duties. Some groups in the exemption did receive additional rest and reset time outside the remaining 29 days; however, most groups identified in the exemption request also worked more than 54 hours per week in the period immediately prior to this proposed exemption. In this context, 54 hours refers to the requirement specified in 10 CFR

26.205(d)(7), which would constitute normal work hours per week.

The licensee has been using the outage work hour controls permitted by 10 CFR 26.205(d)(4) in lieu of the non-outage work controls of 10 CFR 26.205(d)(7). The objective of the MDO requirements in 10 CFR 26.205(d)(4) is to ensure individuals performing the duties described in 10 CFR 26.4(a)(1) through (a)(4) have sufficient long-duration breaks to prevent cumulative fatigue from degrading their ability to safely and competently perform their duties. The individuals in this exemption have continued to extend the use of the work hour controls in 10 CFR 26.205(d)(4) which is set at a 60-day duration for the express purpose of preventing the accumulation of cumulative fatigue. The two previous exemptions granting extensions of the outage period beyond the initial 60-day outage has increased the potential for cumulative fatigue and fatigue-related personnel errors. The licensee addressed this in their RAI response.

In the RAI response, the licensee increased the duration of the rest and reset period for individuals specified in 10 CFR 26.4(a)(2) as Health Physics. The duration of the period increased from 29 to 43 days of working no more than 50 hours per week. Health Physics personnel utilized the outage work hour controls during the initial outage, first exemption, and subsequent exemption period.

In response to the RAI, the licensee also provided a fatigue recovery and monitoring plan to address the NRC staff's concerns about the indefinite plant restart activities and uncertain duration of the outage period. The licensee stated that they would take the following actions outside the rest breaks in 10 CFR 26.205(d)(2) and the minimum days off in 10 CFR 26.205(d)(4) to mitigate the continued accumulation of fatigue: direct leadership to evaluate their schedules, and where feasible, provide additional time off; implement a bi-weekly, site-wide communication emphasizing fatigue management and encouraging self-declaration; and ensure individuals determined to be fatigued will be removed from covered work until a break of at least 10 hours has been provided or a fatigue assessment finds the individual fit for duty. The licensee provided three actions to address how fatigue risk will be actively monitoring using performance indicators including: (1) supervisors completing 10 safety observations per month using the Behavioral Observation form, with an emphasis on human performance, (2) directing field supervisors to dedicate a portion of their weekly observations to fatigue management using the CARE-5 performance tool, and (3) monitor the observation program and corrective action program for predictive indicators of fatigue. The licensee also stated that in addition to transitioning the remaining covered workforce to the requirements in 10 CFR 26.205(d)(7), Palisades Energy will encourage leadership to provide additional time off in support of fatigue recovery and continue to approve time-off requests when feasible.

The NRC staff evaluated the provided fatigue monitoring and recovery program and

determined that these actions do not provide additional reasonable assurance that individuals will be free from the effects of fatigue as described in 10 CFR 26.23(e). The actions specified in the plan are appropriate fatigue management measures which should be part of daily operations. In general, these actions should be incorporated into the licensee's fatigue management program to ensure they have a robust and effective fitness-for-duty program that addresses fatigue management. Palisades Energy leadership providing additional time off would provide additional rest for individuals during the exemption period and at the end of the outage. However, this is contingent on the feasibility of leadership providing the time off and providing a definitive period of recovery prior to the start of the plant. Under the current conditions of extended outage work hour controls across multiple exemption periods and considering the associated continued cumulative fatigue accumulation, the licensee's provided fatigue monitoring and recovery program does not provide sufficient additional reassurance during a third exemption period. Therefore, the staff did not rely on the provisions of the licensee's proposed fatigue monitoring and recovery program, to make the findings necessary for this proposed exemption, even though these provisions are considered appropriate for a fatigue management program, in general.

For this third proposed exemption, the licensee provided a new commitment to implement a bi-weekly site-wide communication emphasizing fatigue management and self-declaration during the period of the exemption. The NRC staff deems this commitment important considering the duration of the outage period since August 25, 2025, and the extended use of outage work hour controls during this time. As indicated in the Statement of Considerations for the 10 CFR part 26 Rule, the NRC staff notes that self-declaration and training in fatigue management may not be implemented consistently during outage periods, and therefore are not substitutes for work hour controls that effectively prevent cumulative fatigue.

The NRC staff held two technical calls with the licensee on March 3, 2026, and March 4, 2026, to address the licensee's response to Question 1.a of the RAI. The licensee submitted a supplement to the RAI response on March 4, 2026 (ML26063A922), providing additional information in response to the technical calls with the NRC. The licensee stated that the restart project involves a broader work scope, the potential for schedule extensions, and the need to manage cumulative worker fatigue. Unlike a normal outage, the licensee noted that the restart project includes additional layers of protection of public health and safety including return-to-service plans for SSCs, the NRC's restart inspection program, additional quality assurance and quality control requirements during system testing and repowering, incremental mode ascension, and surveillances required by the Power Operations Technical Specifications. The licensee stated that these programs provide additional protections to public

health and safety by ensuring fatigue or other factors do not result in latent errors during the restart project in a manner that jeopardizes public health and safety.

The NRC staff evaluated the licensee's statement addressing public health and safety, specifically the nexus between the restart project activities and safety. While the programs noted in the licensee's statement provide layers of protection for public health and safety, these programs are required to be completed to ensure safety during the plant restart effort. However, the personnel supporting the plant restart project have continued to work scheduled hours which exceed the 60-day limitation for outage work hour controls and are inconsistent with the intent of the 10 CFR part 26 fatigue management rule. Extended outage work hour controls and successive exemption periods reduce the protection of public health and safety afforded by the layers of protection described above. This reduction of the protection for public health and safety substantially increases the potential for cumulative fatigue, fatigue-related errors, latent errors, and human performance issues related to fatigue, as well degrading an individual's ability to safely and competently perform their duties.

The licensee understood the NRC's concern regarding cumulative fatigue in the context of three successive exemption periods. By supplemental letter dated March 4, 2026, the licensee amended two commitments in the RAI response. The first amended commitment increased the duration of the rest and reset period for all individuals described in 10 CFR 26.4(a)(2) and (a)(4) from 21 days to at least 4 weeks of working no more than 50 hours work per week. The affected groups include Chemistry, Mechanical Maintenance, Champion Electricians, Electrical Maintenance, Instrumentation and Controls, Champion Project Days, Champion Projects Nights, Champion Boilermakers, Champion Pipefitters, Champion Material Handling, Champion Operating Engineers, Champion Painters, Arc Pipefitters, and Mechanical Seconded Millwrights. The second amended commitment increased the rest and reset period for individuals assigned to the Tesco Projects group from 22 days to 29 days. The remaining commitments in the RAI response remain unchanged.

The NRC staff evaluated the amended commitments along with the commitments provided in original RAI response. All applicable individuals in the third proposed exemption would receive at least 4 weeks of work hours that are less than or equal to the work hour controls in 10 CFR 26.205(d)(7). In addition to these periods of work hours, these individuals would continue to receive breaks between shifts in accordance with 10 CFR 26.205(d)(2)(i) and rest breaks per 10 CFR 26.205(d)(2)(ii). While the breaks between shifts provide adequate opportunity for sleep, full days off provide more opportunity for recovery sleep and time for individuals to meet daily living obligations which if not met could result in forgoing activities or sacrificing sleep, thus increasing their sleep debt and resulting in impairment on the job. The increase to the rest and reset

period duration for personnel in 10 CFR 26.4(a)(2) and (a)(4) ensures individuals working 8-hour shifts receive at least 1 day off per week, individuals working 10-hour shifts receive at least 2 days off per week, and individuals working 12-hour shifts receive at least 3 days off per week for the duration of the rest and reset period. The increased duration of the rest and reset period and working fewer than 50 hours per week provides assurance that prior to the proposed third exemption individuals will receive a sufficient period of long-duration breaks to minimize cumulative fatigue from degrading their ability to safely and competently perform their duties.

The licensee submitted an additional supplement on March 9, 2026, that addresses information that was discussed with the NRC during a conference call on March 6, 2026. During the conference call, the licensee identified a need to utilize additional supplemental worker groups on a case-by-case basis to support the Palisades restart project activities. These additional supplemental workers were not included in the initial third exemption request because they are not currently performing work at Palisades. The licensee requested that these workers, when they arrive to perform work, be exempt from the current rest and reset period being observed by the individuals in 10 CFR 26.4(a)(2) and (a)(4) covered by the third exemption request. It was also requested that these individuals be allowed to utilize the outage work hour controls in 10 CFR 26.205(d)(4) upon the start of performing duties as specified in 10 CFR 26.4(a). The request to utilize outage work hour controls for these additional supplemental workers is not to exceed 60 days or June 2, 2026, whichever occurs first for each additional supplemental worker.

The NRC staff reviewed the second supplemental letter containing a new request for additional supplemental workers. These workers have either not arrived at the site to perform duties specified in 10 CFR 26.4(a) or have not performed work at Palisades since January 1, 2026. For the additional supplemental workers, the licensee stated they plan to comply with Regulatory Position C.10 from NRC Regulatory Guide 5.73, "Fatigue Management for Nuclear Power Plant Personnel," which states, in part, that when personnel transition between outages and the interval between successive outages is less than 9 days, the licensee should determine if the individual has had a 34-hour break period within the 9 days that precede the day the individual performs work for the licensee. In addition, the licensee should ensure the individual does not exceed 16 work hours in any 24-hour period, 26 work hours in any 48-hour period, and 72 work hours in any 7-day period.

In addition, the licensee referenced Section 7.3, "Transitioning Onto a Shift or Between Covered Groups or Into a Covered Group," in Nuclear Energy Institute (NEI) 06-11, "Managing Personnel Fatigue at Nuclear Power Sites," Revision 1, for use by the additional supplemental workers, which states that if an individual begins or resumes covered work during the calculation period, the licensee should include in the calculation

of the individual's work hours all work hours worked, including hours worked performing duties that are not covered work.

The NRC staff considered that the additional supplemental workers have not performed work at Palisades yet or since January 1, 2026. Furthermore, prior to the start of their duties, they would receive at least a 34-hour break between successive outages and during the period of work they would receive minimum days off as specified in 10 CFR 26.205(d)(4). In addition, the combination of mitigating actions and the commitments in the RAI response and supplements, except for rest and reset period, provided by the licensee would apply to the additional supplemental workers. This provides additional assurance that fatigue will be minimized prior to the additional supplemental workers' duties and managed throughout the period of the exemption.

The NRC staff determined that the mitigating strategy to provide a rest and recovery period prior to the proposed third exemption, in combination with the RAI response commitments and supplemental commitments, for individuals in 10 CFR 26.4(a)(2) and (a)(4) will allow the licensee to adequately manage cumulative fatigue during the third 60-day exemption period. Acute fatigue will be sufficiently managed through the breaks between shifts in 10 CFR 26.205(d)(2)(i). Cumulative fatigue will be sufficiently managed through the rest breaks in 10 CFR 26.205(d)(2)(ii), the minimum day off requirements in 10 CFR 26.205(d)(4), and the licensee's commitments to provide all individuals a minimum rest and reset period of at least 4 weeks starting March 7, 2026, through April 3, 2026. Individuals assigned to the FHE, Tesco, and Health Physics groups will receive a rest and reset period equal to or longer than 4 weeks that started between February 8, 2026, and February 15, 2026. In addition, individuals at the highest risk for fatigue due to the number of hours worked per week that are assigned to the Health Physics, Mechanical Maintenance, Electrical Maintenance, Instrumentation and Controls Maintenance, and Mechanical Seconded Millwrights groups will receive a minimum of 4 consecutive days off between March 7, 2026, and May 26, 2026, which will also reduce the accumulation of cumulative fatigue. Because the licensee proposed adequate alternative controls, mitigating actions, and commitments for managing cumulative fatigue among personnel in the exemption request for the duration of the one-time exemption, the NRC staff determined that fatigue will be adequately managed for all specified personnel in this exemption request and the requested one-time exemption will not endanger life or property.

C. The Exemption Will Not Endanger the Common Defense and Security

The proposed exemption would authorize a one-time exemption from the requirements of 10 CFR 26.205(d)(3) and (d)(7) to allow use of the less restrictive work hour controls described in 10 CFR 26.205(d)(4) for up to an additional 60-days. The proposed exemption is not applicable to security personnel, nor does it have any relation to or impact on

security issues. Therefore, the exemption will not endanger the common defense and security.

D. The Exemption is Otherwise in the Public Interest

The proposed exemption would authorize a one-time exemption from the requirements of 10 CFR 26.205(d)(3) and (d)(7) to allow use of the less restrictive work hour controls described in 10 CFR 26.205(d)(4) for up to an additional 60 days. In considering whether the requested exemption would be in the public interest, the NRC staff considered several factors, including:

- the nature of the licensee's unique situation transitioning from decommissioning back to a power operations licensing basis, which requires restoration of safety-related equipment, among other plant restart activities; and
- the public health and safety interests of the communities that are impacted by the safe restart of the plant.

The NRC staff considered the unique situation of Palisades, which was previously in a decommissioning status; however, Palisades Energy has transitioned to a power operations licensing basis and is currently restoring safety-related equipment in addition to other restart-related inspections and repair activities during the ongoing outage to ensure the plant will be safe prior to restarting. The NRC issued an RAI to obtain additional information on the status of the Palisades restart effort and to identify why a third exemption would be necessary and in the public interest. Following the second exemption approved by the NRC, the licensee stated that additional restart-related work scope was identified which required the need for a third exemption from the work hour requirements in 10 CFR 26.205(d)(3) and (d)(7). The proposed third exemption would provide additional time under the less restrictive work hour limitations to allow more flexibility for scheduling of personnel subject to 10 CFR 26.4(a). The licensee noted that this would support the purpose of the fatigue management rule to ensure cumulative fatigue does not compromise the ability of individuals to perform their duties safely and competently. However, the NRC staff disagrees with the licensee that less restrictive work hour controls would support the purpose of the fatigue management rule. Additional time under less restrictive work hour controls, especially over approximately 6 months of utilization, which would stretch to almost 9 months under the proposed third exemption, could compromise an individual's ability to perform their duties safely and competently.

Outages are a key period when supplemental workers provide additional staffing to support the outage activities, and for many supplemental workers the availability of overtime is a key factor in deciding where to work. The staff considered that overtime plays a key role for plant personnel and supplemental workers to continue supporting the Palisades restart activities. In addition, the decrease in work hours for applicable personnel without the exemption could decrease the number of supplemental workers at the plant to support

restart activities. A potential loss of supplemental workers could impact the ability of the licensee to perform the work necessary to restore safety significant SSCs in a timely manner.

The NRC staff considered the balance of public interest considerations, including the potential impacts of not granting the third proposed exemption, which could result in the delay of restarting the Palisades Nuclear Plant and could potentially delay the amount of energy available to the surrounding area. The NRC staff also considered the potential impacts resulting from the continued accrual of cumulative fatigue in personnel and determined, in Section III.B. of this exemption, that the proposed mitigating measures ensure that the granting of the proposed exemption will not endanger life or property.

In the supplement, the licensee stated that the requested exemption has a nexus to improved flexibility in the scheduling, planning, and implementation of restart activities which support the plant's return to service before peak summer electric demand. Palisades Energy noted that the various Michigan state entities have urged the plant to return to service to support regional grid reliability and resource adequacy. In addition, the licensee stated that the U.S. Department of Energy delayed retirement of a baseload facility in Michigan over the summer peak period to retain baseload generation to "help prevent the potential loss of power to homes and local businesses in the areas that might have been affected by curtailments or outages that would otherwise pose a risk to public health and safety."

The NRC staff determined that the exemption is in the public interest because flexibility in the scheduling, planning, and implementation of restart activities will allow the licensee to retain and utilize the skilled personnel necessary to continue working on the safety significant SSCs necessary to restart Palisades in a manner that will support the timely restart of the plant without endangering life or property. Timely restart of the plant in a manner that does not endanger life or property is in the public interest because the availability of this resource supports better overall grid reliability. Therefore, the NRC staff finds that approval of the requested exemption is otherwise in the public interest.

E. Environmental Considerations

The Commission has determined that granting the proposed one-time exemption from the requirements of 10 CFR 26.205(d)(3) and (d)(7) involves (1) no significant hazards consideration, (2) no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, (3) no significant increase in individual or cumulative public or occupational radiation exposure, (4) no significant construction impact, and (5) no significant increase in the potential for or consequences from radiological accidents.

(1) Under 10 CFR 50.92(c), there is no significant hazards consideration if the action does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create

the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed exemption is administrative in nature because it provides an additional period when less restrictive hours can be worked for personnel identified in 10 CFR 26.4(a)(2) and (a)(4). The proposed exemption has no effect on SSCs and no effect on the capability of the SSCs to perform their design function. The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function, or operation of any plant equipment. Therefore, the exemption does not increase the probability or consequences of an accident previously evaluated.

The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function, or operation of any plant equipment. Similarly, the proposed exemption does not authorize any physical changes to any SSCs involved in the mitigation of any accidents. Therefore, the exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed exemption does not authorize alteration of the design basis or any safety limits for the plant. The exemption would not impact station operation or any SSC that is relied upon for accident mitigation. Therefore, the exemption does not involve a significant reduction in a margin of safety.

For these reasons, the NRC has determined that approval of the exemption requested involves no significant hazards consideration.

(2) The proposed exemption does not authorize any changes to the design basis requirements for the SSCs at Palisades that function to limit the release of non-radiological effluents, radiological liquid effluents, or radiological gaseous effluents during and following postulated accidents. Additionally, the exemption does not change any requirements with respect to the conduct of radiation surveys and monitoring. Therefore, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

(3) The proposed exemption does not affect the limits on the release of any radioactive material or the limits provided in 10 CFR part 20, "Standards for Protection Against Radiation," for radiation exposure to workers or members of the public. Additionally, the exemption will not increase or decrease the amount of work activities that must be completed in order to connect the reactor unit to the electrical grid. Therefore, there is no significant increase in individual or cumulative public or occupational radiation exposure.

(4) The proposed exemption does not involve any changes to a construction permit. Therefore, there is no significant construction impact.

(5) The proposed exemption does not alter any of the assumptions or limits in the licensee's accident analyses. Therefore, there

is no significant increase in the potential for or consequences from radiological accidents.

In addition, the requirements from which the exemption are sought involve other requirements of an administrative, managerial, or organizational nature. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(I). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's consideration of the exemption request.

III. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.9, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Palisades Energy, LLC a one-time exemption from 10 CFR 26.205(d)(3) and (d)(7) for personnel identified in 10 CFR 26.4(a)(2) and (a)(4) to allow the use of the outage MDO requirements described in 10 CFR 26.205(d)(4) for a 60-day period starting March 13, March 16, March 30, or April 6, 2026, for individuals assigned to the FHE and Tesco projects, individuals in 10 CFR 26.4(a)(2) Health Physics, or individuals in 10 CFR 26.4(a)(2) Chemistry and (a)(4) Maintenance not assigned to FHE or Tesco projects, respectively. While the exemption is in effect, Palisades Energy, LLC will ensure that individuals specified in 10 CFR 26.4(a)(2) have at least 3 days off in each successive (*i.e.*, non-rolling) 15-day period; and that individuals specified in 10 CFR 26.4(a)(4) have at least 1 day off in any 7-day period.

Additionally, Palisades Energy, LLC will use the outage MDO requirements, the rest break requirements, the mitigating actions described in the February 13, 2026, enclosure, the commitments described in the RAI response dated February 27, 2026, and the amended commitments in the supplements dated March 4, 2026, and March 9, 2026. The proposed mitigating actions, supplemental mitigating actions, licensee commitments to limit work hours for individuals in 10 CFR 26.4(a)(2) and (a)(4), provisions to provide additional consecutive days off for Health Physics, Mechanical Maintenance, Electrical Maintenance, Instrumentation and Controls Maintenance, and Mechanical Seconded Millwrights, and commitment to a bi-weekly site-wide communication emphasizing fatigue management and self-declaration will adequately manage acute and cumulative fatigue for personnel performing duties in 10 CFR 26.4(a)(2) and (a)(4) during the third exemption period.

If the Palisades Nuclear Plant is connected to the electrical grid prior to the end of the approved 60-day exemption period, the supporting bases for this exemption are no longer met. Accordingly, the exemption shall end at the last date permitted for personnel approved to use the approved 60-day outage work hour controls, which is June 2, 2026. However, the following groups of individuals shall return to a normal work schedule as

follows: FHE personnel on May 11, 2026, Tesco personnel on May 14, 2026, and Health Physics personnel on May 28, 2026. Furthermore, if the Palisades Nuclear Plant is connected to the electrical grid prior to the dates specified in this exemption for covered personnel to work outage work hour controls, the exemption will be deemed to have expired.

The Palisades restart project is a first-of-a-kind activity where a nuclear power plant in decommissioning status is being returned to operational status. Palisades, as a plant in decommissioning, was not subject to the fatigue management requirements in 10 CFR part 26 Subpart I. However, on August 25, 2025, Palisades implemented the Power Operations licensing basis, including the FSAR and the Power Operations Technical Specifications, and transitioned into an outage under the Power Operations Technical Specifications to restore the plant for restart and as a result became subject to the work hour control requirements in 10 CFR 26.205. This current exemption request and two prior exemptions from the work hour controls directly support restart activities unique to the Palisades restart project for specific groups of personnel, with specific consideration of the hours worked by each group prior to the issuance of this exemption, to support the numerous activities necessary to safely return the plant to an operational status. Regardless, the staff notes that fatigue is cumulative, and each request for an exemption from the work hour requirements specified in 10 CFR 26.205 are evaluated on a case-by-case basis specific to the circumstances of the facility in light of mitigation measures proposed to manage acute and cumulative fatigue, the timing between outage work hour schedules, and the hours worked by individuals.

Dated: March 13, 2026.

For the Nuclear Regulatory Commission.

/RA/

Aida Rivera-Varona,
Acting Director, Division of Operating
Reactor Licensing, Office of Nuclear Reactor
Regulation.

[FR Doc. 2026-05284 Filed 3-17-26; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-413; NRC-2026-1321]

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Unit 1; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request dated August 18, 2025, from Duke Energy Carolinas, LLC, to allow the use of AXIOM® fuel cladding at Catawba Nuclear Station, Unit 1. Current NRC regulations limit applicability to the use

of fuel rod cladding with zircaloy or ZIRLO™.

DATES: The exemption was issued on March 10, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1321 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2025–1321. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The exemption request dated August 18, 2025, is available in ADAMS under Accession Nos. ML25230A072.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Klos, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5136; email: John.Klos@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: March 16, 2026.

For the Nuclear Regulatory Commission.
Lee Klos,
Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket No. 50–413; Duke Energy Carolinas, LLC; Catawba Nuclear Station, Unit 1; Exemption

I. Background

Duke Energy Carolinas, LLC (Duke Energy, the licensee), is the holder of Renewed Facility Operating License (RFOL) No. NPF–35 for Catawba Nuclear Station, Unit 1 (Catawba). The RFOL provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

Catawba, Unit 1, consists of a pressurized-water reactor located at the licensee's site in York County, South Carolina.

II. Request/Action

By application dated August 18, 2025 Agencywide Documents Access and Management System (ADAMS), Accession No. ML25230A072, the licensee, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.12, "Specific exemptions," requested an exemption from certain requirements of 10 CFR 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," to allow the use of AXIOM® fuel cladding at Catawba.

The regulations in 10 CFR 50.46 are currently limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding. The special circumstances associated with the exemption request are that application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

III. Discussion

The regulation in 10 CFR 50.46(a)(1)(i) states, in part, that:

each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents [LOCA] conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated.

Since 10 CFR 50.46 specifically refers to fuel with zircaloy or ZIRLO™ cladding, its application to fuel clads with materials other than zircaloy or ZIRLO™ requires an exemption from this section of the regulations.

The exemption request from the licensee relates solely to the types of fuel cladding

materials specified in these regulations. As written, the regulations specify the use of zircaloy or ZIRLO™ cladding. Thus, an exemption to 10 CFR 50.46 is necessary to use cladding materials (*i.e.*, AXIOM®), other than zircaloy or ZIRLO™ cladding. The licensee's request does not propose to exempt Catawba from any other requirements of 10 CFR 50.46 regarding acceptance criteria, evaluation model features and documentation, reporting of changes or errors, etc.

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from requirements of 10 CFR part 50 when: (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) special circumstances are present. Under 10 CFR 50.12(a)(2), special circumstances are present when at least one of the following six conditions are met:

- (i) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission; or
- (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or

- (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or

- (iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption; or

- (v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation; or

- (vi) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

The licensee's proposed exemption request which would permit application of the requirements of 10 CFR 50.46 to fuel rods clad with AXIOM® at Catawba identifies, in particular, that the special circumstance associated with this exemption request is that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

The technical basis for the use of fuel cladding with AXIOM® in Pressurized Water Reactors (PWRs) is documented in Topical Report (TR) WCAP–18546NP–A, Revision 0, "Westinghouse AXIOM® Cladding for Use in Pressurized Water Reactor Fuel," March 2023 (ML23089A066). This TR describes Westinghouse's evaluation for the use of the AXIOM® alloy in PWR fuel assemblies as a replacement for ZIRLO™ and Optimized ZIRLO™. This TR discusses material properties of AXIOM®, as well as its behavior under normal operation, anticipated transients, and postulated accident conditions.

As identified in TR WCAP-18546NP-A, Revision 0, the AXIOM® alloy is a proprietary niobium-bearing variant of zirconium. This material also has tin, vanadium, and copper as alloying elements. Westinghouse stated that the AXIOM® alloy was developed to provide enhanced performance with respect to corrosion, hydrogen pickup, growth, and creep. While demonstrating relevant differences in certain material properties and physical behavior, TR WCAP-18546NP-A, Revision 0, identifies that the basic physical properties of AXIOM® are similar to ZIRLO™.

In TR WCAP-18546NP-A, Revision 0, Section C, “Submittal of Topical Report,” Sections 3.11, “Post Quench Ductility,” 3.12, “Breakaway Oxidation,” and 6.2.1.4, “Fuel Clad Wear,” Westinghouse states the rationale for concluding that each of the acceptance criteria in 10 CFR 50.46 is applicable to fuel clad with AXIOM®.

As documented in its safety evaluation on TR WCAP-18546NP-A, Revision 0, Section A, the NRC staff concluded that the criteria of 10 CFR 50.46 are acceptable for the application of AXIOM® cladding. The TR’s Section A also states the technical basis for the NRC staff’s conclusions in support of the AXIOM® alloy is the testing and analysis that Westinghouse had performed. Despite finding application of 10 CFR 50.46 to AXIOM® acceptable from a technical perspective, current regulations in 10 CFR 50.46 are limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding; therefore, an exemption for use of a new cladding material (such as AXIOM®), is required.

A. The Exemption Is Authorized by Law

The NRC has the authority under 10 CFR 50.12 to grant exemptions from the requirements of 10 CFR part 50 if the justification demonstrates it is authorized by law. The AXIOM® fuel that will be irradiated at Catawba is clad with a zirconium-based alloy that is not expressly within the scope of 10 CFR 50.46. However, the NRC staff considers all other aspects of these regulations (e.g., acceptance criteria, prescribed methods, reporting requirements) applicable to the AXIOM® cladding material, and the licensee states that it will ensure that these regulations are satisfied for operation with fuel clad with AXIOM®. The NRC staff has determined that granting the exemption from 10 CFR 50.46 related to AXIOM®, which is neither zircaloy nor ZIRLO™, will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC’s regulations. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

In its submittal dated August 18, 2025, the licensee stated,

The reload evaluations will ensure that acceptance criteria are met for future reload cores after the transition to fuel rods clad with AXIOM material. Fuel assemblies using AXIOM fuel rod cladding will be evaluated using NRC-approved analytical methods and plant-specific models to address the changes in the cladding material properties. The

safety analyses for CNS U1 and MNS are supported by the applicable site-specific TSs [Technical Specifications]. Reload cores are required to be operated in accordance with the operating limits specified in the TSs. Thus, the granting of this exemption request will not pose an undue risk to public health and safety.

The NRC staff’s previous review of TR WCAP-18546NP-A, Revision 0, which concerns the properties of the AXIOM® alloy, provides assurance that predicted chemical, thermal, and mechanical characteristics of AXIOM®-alloy cladding are acceptable under normal operation, anticipated transients, and postulated accidents. The NRC staff finds that by utilizing the methods and properties stated in TR WCAP-18546NP-A, Revision 0, Section A, the licensee meets the acceptance criteria and analytical methods in 10 CFR 50.46, and thus, ensures acceptable safety margins for fuel clad with AXIOM® that are consistent with those the Commission has established for zircaloy and ZIRLO™. Catawba’s cores involving AXIOM® cladding will continue to be subject to the operating limits specified in the technical specifications and core operating limits report. The licensee will manage core reloads of fuel with AXIOM® cladding using NRC-approved analytical methods and plant TS. Thus, granting this exemption request will not pose undue risk to public health and safety.

C. The Exemption Is Consistent With the Common Defense and Security

The exemption will allow the licensee to use an enhanced fuel rod cladding material relative to the zircaloy material for which the requirements of 10 CFR 50.46 were originally established. The NRC staff concluded in TR WCAP-18546NP-A, Revision 0, Section A, that the use of AXIOM® fuel rod cladding at Catawba will not significantly affect plant operations and is, therefore, consistent with the common defense and security. Special nuclear material in these fuel assemblies will be controlled using NRC-approved analytical methods, plant-specific models, and approved station procedures. Therefore, the exemption does not involve security requirements and does not create a security risk. Therefore, the exemption is consistent with the common defense and security.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 is to establish acceptance criteria for ECCS performance.

The regulations in 10 CFR 50.46 do not explicitly apply to fuel clad with AXIOM®. However, the underlying purpose of 10 CFR 50.46 is to provide requirements capable of ensuring adequate core cooling during and after the most limiting postulated LOCA. As discussed above, Westinghouse has demonstrated in an NRC-approved TR (i.e. TR WCAP-18546NP-A) that application of the acceptance criteria and analytical

methods required in 10 CFR 50.46 to fuel cladding with AXIOM® is acceptable. For the maximum local oxidation limit in 10 CFR 50.46(b)(2), Westinghouse meets the 17 percent limit in the rule for cladding without any hydrogen but further justified the use of an alternative limit that the NRC finds acceptable for maintaining post quench ductility during a postulated LOCA. The licensee stated that the Catawba LOCA analysis for the fuel assemblies with AXIOM® cladding was performed using the Full Spectrum LOCA evaluation model and adheres to the limitations of the associated topical reports. Therefore, strict application of the material-specific requirements for fuel cladding in 10 CFR 50.46 is not necessary to achieve the underlying purpose of ensuring adequate core cooling in this instance. Furthermore, granting an exemption to allow application of the balance of these regulations for fuel cladding with AXIOM® at Catawba, Unit 1, would be consistent with the underlying regulatory purpose.

E. Environmental Considerations

The exemption requested by the licensee includes changes to requirements with respect to installation or use of a facility component located within the restricted area. The NRC staff determined that the exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9) because the granting of this exemption involves: (i) no significant hazards consideration, (ii) no significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, and (iii) no significant increase in individual or cumulative occupational radiation exposure. Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC’s consideration of this exemption request. The basis for the NRC staff’s determination of each of the requirements in 10 CFR 51.22(c)(9) is discussed below.

Requirements in 10 CFR 51.22(c)(9)(i)—There Is No Significant Hazards Consideration

The NRC staff evaluated the issue of no significant hazards consideration using the standards described in 10 CFR 50.92(c), as presented below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed exemption to allow the use of AXIOM® fuel rod cladding does not involve a significant increase in the probability or consequences of an accident previously evaluated.

For the set of previously evaluated accidents, their probability is governed by the failure or malfunction of equipment or components other than the fuel rod cladding. The fuel rod cladding itself is not an accident initiator and does not affect the accident probability. Therefore, the change in fuel rod cladding material does not affect the probability of previously evaluated accidents. The proposed exemption does not involve a significant increase in the consequences of

previously evaluated accidents. This conclusion is demonstrated by the analysis submitted by the licensee in support of the proposed use of AXIOM® cladding that the NRC staff has reviewed in support of the proposed license amendment. The licensee's analysis shows that fuel clad with AXIOM® material performs comparably to fuel cladding materials that have been used previously. This satisfies the acceptance criteria in 10 CFR 50.46(b) for the LOCA event.

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of AXIOM® fuel rod cladding does not create the possibility of a new or different kind of accident from any previously evaluated. The fuel rod cladding is not an accident initiator. The use of AXIOM® cladding has been assessed by the licensee and vendor, and it has been found to exhibit comparable or enhanced behavior relative to the zircaloy and ZIRLO™ cladding material specifically identified in 10 CFR 50.46. The NRC staff has previously reviewed this information in its safety evaluation approving TR WCAP-18546NP-A. Use of Westinghouse fuel with AXIOM® cladding in the Catawba, Unit 1, reactor cores is compatible with the plant design and does not introduce any new safety functions for plant structures, systems, or components. Furthermore, the introduction of AXIOM® cladding does not affect any accident mitigation systems and does not introduce any new accident initiation methods.

Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No.

The proposed exemption does not involve a significant reduction in the margin of safety. The licensee's analysis of the spectrum of postulated LOCA events for fuel rods clad with AXIOM® exhibits results comparable to those for the fuel currently in use at Catawba for the small-break and the large-break LOCA events. Furthermore, the fuel vendor has generically evaluated the performance of AXIOM® cladding relative to the zircaloy cladding specifically identified in 10 CFR 50.46. The vendor concluded that the performance of the AXIOM® cladding material is quite similar to or enhanced relative to the ZIRLO™ cladding material. The NRC staff has performed a review of these conclusions and documented in its safety evaluation on TR WCAP-18546NP-A that the AXIOM® material properties and mechanical design methodology are in accordance with applicable regulations and regulatory guidance.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

The NRC staff concludes that the proposed exemption presents no significant hazards

consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified (*i.e.*, satisfies the provision of 10 CFR 51.22(c)(9)(i)).

Requirements in 10 CFR 51.22(c)(9)(ii)—There Is No Significant Change in the Types or Significant Increase in the Amounts of Any Effluents That May Be Released Offsite

The proposed exemption would allow the use of AXIOM® fuel rod cladding material in the reactors. AXIOM® cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO™ cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly change the types of effluents, or significantly increase the amount of effluents that may be released offsite. Therefore, the provision of 10 CFR 51.22(c)(9)(ii) is satisfied.

Requirements in 10 CFR 51.22(c)(9)(iii)—There Is No Significant Increase in Individual or Cumulative Occupational Radiation Exposure

The proposed exemption would allow the use of the AXIOM® fuel rod cladding material in the reactors. AXIOM cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly increase individual occupational radiation exposure or significantly increase cumulative occupational radiation exposure. Therefore, the provision of 10 CFR 51.22(c)(9)(iii) is satisfied.

The NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's proposed granting of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Duke Energy Carolinas, LLC's request for an exemption from the specific requirements of 10 CFR 50.46 for use of AXIOM® fuel rod cladding.

This exemption is effective upon issuance.

Dated: March 10, 2026.

For the Nuclear Regulatory Commission.

/RA/

Aida Rivera-Varona,

Acting Director Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2026-05255 Filed 3-17-26; 8:45 am]

BILLING CODE 7590-01-P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Direct Express Enrollment Form

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) approve, under the Paperwork Reduction Act, a new collection of information. The purpose of the information collection is to obtain information necessary to enroll individuals in the Direct Express debit card program. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before May 18, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* paperwork.comments@pbgc.gov. Refer to Direct Express Enrollment Form in the subject line.

- *Mail or Hand Delivery:* Legislative and Regulatory Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101.

Commenters are strongly encouraged to submit comments electronically. Commenters who submit comments on paper by mail should allow sufficient time for mailed comments to be received before the close of the comment period.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the Direct Express Enrollment Form. All comments received will be posted without change to PBGC's website, www.pbgc.gov, including any personal information provided. Do not submit comments that include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. Comments may be submitted anonymously.

Copies of the collection of information may be obtained without charge by writing to the Disclosure Division, (disclosure@pbgc.gov), Office

of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101; or, calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT:

Monica O'Donnell (odonnell.monica@pbgc.gov), Attorney, Legislative and Regulatory Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101; 202-229-8706. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The Direct Express card is a prepaid debit card that federal benefit recipients can use to receive their benefits electronically and is administered by the U.S. Department of the Treasury ("Treasury"). Federal benefit recipients do not need a bank account to sign up for the Direct Express card, and there is no credit check or minimum balance requirement.

Executive Order 14247 ("Modernizing Payments To and From America's Bank Account"), signed on March 25, 2025, requires the transition to electronic payments for all Federal disbursements and collections by digitizing payments to the extent permissible under the law. To comply with Executive Order 14247, PBGC will transition its recipients receiving paper checks to receiving their benefits electronically. These recipients can do so by providing their bank or credit union information or through using a Direct Express card.

For PBGC to enroll its payees currently receiving paper checks with the Direct Express card, PBGC must collect identifying information needed to set up the account. Those wishing to enroll also must certify that the information provided can be used to establish the Direct Express card account to receive benefit payments. PBGC will use the information it receives and coordinate with Treasury to set up the accounts. Treasury will issue the card authorized to receive PBGC payments to the benefit recipient, and then PBGC will use that account number to pay benefits electronically.

PBGC estimates that it will receive enrollment forms from approximately 10,000 benefit recipients in the first year, and approximately 2,000 per year in the following years, leading to an average of 4,667 forms per year over the next 3 years. PBGC estimates that it will take 10 minutes and \$0 for interested enrollees to complete this form.

Therefore, the total annual burden associated with this collection of information is estimated to be 778 hours and \$0 each year for the next 3 years.

PBGC intends to request that OMB approve PBGC's use of this form for 3 years. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

PBGC is soliciting public comments 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 methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Joseph Krettek,

Assistant General Counsel, Legislative and Regulatory Division, Pension Benefit Guaranty Corporation.

[FR Doc. 2026-05260 Filed 3-17-26; 8:45 am]

BILLING CODE 7709-02-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-173 and K2026-173]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 23, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s)*: MC2026–173 and K2026–173; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1492 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 13, 2026; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: March 23, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–05311 Filed 3–17–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* March 18, 2026.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), it filed with the Postal Regulatory Commission the following requests:

Date filed with Postal Regulatory Commission	Negotiated service agreement product category and number	MC Docket No.	K Docket No.
03/13/26	PME–PM–GA 1492	MC2026–173	K2026–173.

Documents are available at www.prc.gov.

Sean C. Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2026–05226 Filed 3–17–26; 8:45 am]
BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104988; File No. SR–CboeEDGX–2026–011]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rules 11.23 and 11.24 Relating to Regulatory and Operational Trading Halts, Integrate Definitions and Concepts From the Amended CTA/CQ Plan, Reorganize Rule 11.16, and Make Conforming Changes to Related Rules

March 13, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 6, 2026, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with

the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to adopt Rules 11.23 and 11.24 to integrate several definitions and concepts from the Amended CTA/CQ Plan and to reorganize Rule 11.16 in light of the Exchange's experience with applying the rule during its time as a national securities exchange and to make conforming changes to related rules. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with adoption of Amended CTA/CQ Plan proposed by its participants (“Amended CTA/CQ

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b–4(f)(6).

Plan”),⁵ the Exchange proposes to adopt Rules 11.23 and 11.24 to integrate several definitions and concepts from the Amended CTA/CQ Plan and to reorganize existing Rule 11.16 in light of the Exchange’s experience with applying the rule during its time as a national securities exchange.⁶ Current Rule 11.16 would be reorganized to include only the Limit Up-Limit Down Mechanism.⁷ Proposed Rule 11.23 would be entitled “Trading Halts” and would set forth the Exchange’s authority to halt trading under various circumstances.⁸ Proposed Rule 11.24 would be entitled “Trading Halts Due to Extraordinary Market Volatility” and would contain the rule text related to

⁵ On February 23, 2021, the participants of the CTA/CQ Plans filed Amendment 36 to the CTA Plan and Amendment 27 to the CQ Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Books, Chairman, Operating Committee, CTA/CQ Plans, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021. See Securities Exchange Act Release No. 34–92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR–CTA/CQ–2021–01). The Amended CTA/CQ Plan includes provisions requiring participant self-regulatory organizations (“SROs”) to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the CTA/CQ Plans, and the plan for consolidation of data for NASDAQ-listed securities, The Joint Self-Regulatory Organization Plan Governing The Collection, Consolidation and Dissemination of Quotation and Transaction Information For NASDAQ-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (“UTP Plan”), include provisions similar to the changes proposed by the Exchange in this filing.

⁶ The Exchange notes that it is a participant of the transaction reporting plan governing Tape B securities. Each transaction reporting plan has a securities information processor (“SIP”) responsible for consolidation of information for the plan’s securities, pursuant to Rule 603 of Regulation NMS. The transaction reporting plans for BZX-listed securities are known as the “Consolidated Tape System and Consolidated Quotations System Plan (collectively, the “CTA/CQ Plans”). Pursuant to the CTA/CQ Plans, the Securities Industry Automation Corporation (“SIAC”) consolidates order and trade data from all markets trading BZX-listed securities. The Exchange uses the term “CTA/CQ SIP” herein when referring specifically to the SIP responsible for consolidation of information in BZX-listed securities. BZX is an affiliate of the Exchange and serves as a Primary Listing Market, unlike the Exchange. *Infra* note 6.

⁷ See Securities Exchange Act Release No. 88704 (April 21, 2020), 85 FR 23383 (April 27, 2020) (File No. 4–631) (approving the Twentieth Amendment to the National Market System Plan to Address Extraordinary Market Volatility).

⁸ The Exchange notes that its sister exchange, Cboe BZX Exchange, Inc. (“Cboe BZX”), filed a similar proposed rule change with the Commission. The Exchange’s proposal provides the Exchange with less authority to declare halts in the event of regulatory or operational issues than under Cboe BZX’s proposal because the Exchange, unlike Cboe BZX, is not a Primary Listing Market. Given the Exchange’s status as a non-Primary Listing Market, certain definitions and concepts from the Amended CTA/CQ Plan, integrated in Cboe BZX’s proposal, are not included herein.

Market-Wide Circuit Breakers currently codified in Rule 11.16(a)–(d), (g)–(j). As part of these changes, the Exchange will create categories of regulatory and operational halts, improve the rule’s clarity, and adopt defined terms from the Amended CTA/CQ Plan. In addition, the Exchange is updating cross references in other rules that are affected by the proposed changes.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events which might impact multiple exchanges are handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is described below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange that is responsible for a number of regulatory functions.⁹ These include confirming that the security continues to meet the exchange’s listing standards, monitoring trading in that security and taking action to halt trading in the security when necessary to protect investors and to ensure a fair and orderly market. While these core responsibilities remain with the primary listing venue, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,¹⁰ and may only trade the security once the Primary

Listing Market has cleared the security to resume trading.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market.

In addition to establishing common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues, the Exchange is reorganizing the rule to improve clarity. The Exchange will implement all of the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish a Trade Desk Notice at least 30 business days prior to implementing the proposed changes.

Definitions

The Exchange proposes adding a definitions section as Rule 11.23(a) to consolidate the various definitions that will be used in the Rule, some of which are taken from the Amended CTA/CQ Plan. The Exchange is adopting the following terms from the Amended CTA/CQ Plan: “Operating Committee,” “Operational Halt,” “Primary Listing Market,” “Processor,”¹¹ “Regulatory Halt,” “SIP Halt,” and “SIP Halt Resume Time.” The Exchange is adopting a modified form of the term “Extraordinary Market Activity” from the Amended CTA/CQ Plan, as described below. The definitions of “Post-Closing Session,” “Pre-Opening Session,” “Regular Trading Hours,” and “UTP Derivative Security” are currently defined in Rule 1.5(r), (s), (y), and (gg) respectively and have been cross-referenced in the definitions section.¹²

First, the Exchange proposes to add the definition of “Primary Listing Market”¹³ to Rule 11.23(a), which will have the same meaning as in the Amended CTA/CQ Plan, Section

¹¹ The Exchange proposes to also define the term “SIP” to have the same meaning as the term “Processor” as set forth in the Amended CTA/CQ Plan. Because the terms “Processor” and “SIP” are also used throughout the Rules, at time, to apply to processors of information furnished pursuant to the Nasdaq UTP Plan (“UTP Plan”), the term “Processor” may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the UTP Plan.

¹² As noted above, the Exchange is adopting several new terms that have the same meaning as those terms are defined in the Amended CTA/CQ Plan. Each of the national market system plans governing the single plan processors have identical definitions of these terms, thus there will be uniformity in the meaning of the terms among such plans as well as among the rules of the SROs.

¹³ See proposed Rule 11.23(a)(6).

⁹ The Exchange is proposing to adopt Primary Listing Market as a new term, defined in the CTA/CQ Plans, Section XI(a)(i)(H), as follows: “[T]he national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.”

¹⁰ See proposed Rule 11.23(a)(8).

XI(a)(i)(H). As is currently the case under Rule 14.1(c)(3), with respect to UTP Derivative Securities, and under the CTA/CQ Plans, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches the language used in the definition of “Primary Listing Exchange” in the Limit Up-Limit Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add the definition of “Extraordinary Market Activity” to Rule 11.23(a), which would represent a modified version of the term defined in the Amended CTA/CQ Plan, Section XI(a)(i)(A).¹⁴ Specifically, the Exchange proposes to remove the concept of a “market-wide basis” from the Amended CTA/CQ Plan’s definition of Extraordinary Market Activity for purposes of the Exchange’s Rules because the term “Extraordinary Market Activity” would only be used in the Exchange’s Rules as a basis for the Exchange to initiate an Operational Halt, which would only occur on the market declaring the halt (*i.e.*, the Exchange).¹⁵ The current rule does not

include a definition for Extraordinary Market Activity.

The next set of new proposed definitions would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of “Extraordinary Market Activity” (as defined in the Amended CTA/CQ Plan), the Exchange believes that the critical role of the SIPs in market infrastructure factors in favor of additional guidance on how such events will be handled. The definitions of “SIP Halt Resume Time,” and “SIP Halt” are intended to provide additional guidance and specific processes to address this subset of potential market issues.¹⁶ In addition, the Exchange is proposing to define terms related to SIP governance needed in order to understand these definitions:

- “Processor” or “SIP”¹⁷ have the same meaning as the term “Processor” set forth in the CTA/CQ Plans, namely the entity selected by the Participants to perform the processing functions set forth in the Plans. Because the terms “Processor” and “SIP” are also used throughout the Rules, at times, to apply to processors of information furnished pursuant to the Nasdaq UTP Plan, the term “Processor” and “SIP” may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the Nasdaq UTP Plan.
- “Operating Committee”¹⁸ is defined as having the same meaning as in the CTA/CQ Plans, namely the committee charged with administering the CTA/CQ Plans.

The Exchange is proposing to adopt a category of Regulatory Halt, called a “SIP Halt,”¹⁹ which will have the same meaning as that term is defined in Section XI(a)(i)(K) of the CTA/CQ Plans, namely “a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.” This new category of Regulatory Halt will address situations where the Primary Listing Market declares a

Regulatory Halt in one or more securities as a result of a SIP Outage²⁰ or Material SIP Latency.²¹

The Exchange proposes to add a definition of “Regulatory Halt”²² as having the same meaning as in Section XI(a)(i)(J) of the Amended CTA/CQ Plan, which defines a Regulatory Halt to mean a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers²³ for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up-Limit Down, a halt based on Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan), a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.

Finally, the Exchange proposes to add a definition of “Operational Halt,”²⁴ as having the same meaning as in Section XI(a)(i)(G) of the Amended CTA/CQ Plan, which defines an Operational Halt to mean “a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.”²⁵ An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the impacted securities. In practice, the Exchange has always had the capacity to implement operational halts in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s

¹⁴ In the Amended CTA/CQ Plan, “Extraordinary Market Activity” means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition in the Amended CTA/CQ Plan, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, or transaction information for a sustained period.

¹⁵ The Exchange proposes to define “Extraordinary Market Activity” to mean a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact on quoting, order, or trading activity or on the availability of market information necessary to

maintain a fair and orderly market. For purposes of this definition in the Exchange’s rules, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers of their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.

¹⁶ The Exchange proposes to define the terms “SIP Halt Resume Time” and “SIP Halt” to have the same meaning as in the Amended CTA/CQ Plan.

¹⁷ See proposed Rule 11.23(a)(7).

¹⁸ See proposed Rule 11.23(a)(3).

¹⁹ See proposed Rule 11.23(a)(10).

²⁰ SIP outage means a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future. See Amended CTA/CTA Plan, Section XI(a)(i)(M).

²¹ Material SIP latency means a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the Processor’s vendor lines, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future. See Amended CTA/CTA Plan, Section XI(a)(i)(E).

²² See proposed Rule 11.23(a)(8).

²³ See Amended CTA/CQ Plan Section XI(a)(i)(N). A “Trading Center” has the same meaning as that term is defined in Rule 600(b)(82) of Regulation NMS.

²⁴ See proposed Rule 11.23(a)(4).

²⁵ A “Market” has the same meaning as that term is defined in Section XI(a)(i)(C) of the Amended CTA/CQ Plan.

rules.²⁶ The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.

Regulatory Halt Types

Proposed Rule 11.23(b) would set forth requirements relating to Regulatory Halts.

Authority To Initiate a Regulatory Halt

The Exchange proposes to consolidate the various types of situations that form the basis for declaring a Regulatory Halt in proposed Rule 11.23(b)(1). In this subsection, the Exchange would identify all of the bases for its Regulatory Halt authority, including cross-referencing to current rules describing existing halt authority and by adding the new Regulatory Halt authority consistent with the Amended CTA/CQ Plan.

Proposed Rule 11.23(b)(1)(A) describes “Mandatory Halts,” where the Exchange must issue a Regulatory Halt. The proposed rule would identify four categories of Regulatory Halts:

- Pursuant to proposed Rule 11.23(b)(1)(A)(i) regarding the Market-Wide Circuit Breakers, which will be retained without modification in proposed Rule 11.24 (currently codified in Rule 11.16(a)–(d); (f)–(j)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.23(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

- Pursuant to proposed Rule 11.23(b)(1)(A)(ii) regarding the Limit Up-Limit Down Mechanism (proposed Rule 11.16). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.23(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan. The Exchange, as a non-Primary Listing Market, does not itself declare trading pauses pursuant to the Limit Up-Limit Down Mechanism, but rather implements such pauses declared by Primary Listing Markets.

- Pursuant to proposed Rule 11.23(b)(1)(A)(iii), which would provide that the Exchange must halt trading when the Primary Listing Market declares a SIP Halt or halts trading based on Extraordinary Market Activity. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.23(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

- Pursuant to proposed Rule 11.23(b)(1)(A)(iv), which would provide that the Exchange would honor a Regulatory Halt initiated by the Primary Listing Market for any security listed on the Exchange. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.23(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

The Exchange proposes to add proposed Rule 11.23(b)(1)(A)(iv)(a), which makes clear that the start time of a Regulatory Halt is the time the Primary Listing Market declares the Regulatory Halt, regardless of whether communication issues impact the dissemination of notice of the Halt.²⁷ This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all Trading Centers. However, a fixed “official” Regulatory Halt time will allow SROs to revisit trades after the fact and determine in a consistent manner whether specific trades should stand.

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange, the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith,²⁸ and certain parts of the complex process of reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP),

the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Regular Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 11.23(b)(2), which incorporates Section XI(a)(v)(A) and Section XI(a)(vi)(C) of the Amended CTA/CQ Plan, is divided into the following two subsections concerning resumption of trading: (A) after a Regulatory Halt other than a SIP Halt; and (B) after a SIP Halt. Proposed Rule 11.23(b)(2)(A)(i) provides that, for a Regulatory Halt other than a SIP Halt, the Exchange may resume trading after the Exchange receives notification from the Primary Listing Market that the Regulatory Halt has been terminated.

Proposed Rule 11.23(b)(2)(A) provides the process to be followed when resuming trading upon the conclusion of Regulatory Halts other than SIP Halts. The new rule would effectuate Section XI(a)(v) of the Amended CTA/CQ Plan.

Proposed Rule 11.23(b)(2)(B) would address the resumption of trading following a SIP Halt. The new rule would effectuate Section XI(a)(vi) of the Amended CTA/CQ Plan. Proposed Rule 11.23(b)(2)(B)(i) would provide that, for securities subject to a SIP Halt initiated by another exchange that is the Primary Listing Market, during Regular Trading Hours, the Exchange may resume trading after trading has resumed on the Primary Listing Market or notice has been received from the Primary Listing Market that trading may resume. During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, the Exchange may resume trading in that security. Outside Regular Trading Hours, the Exchange may resume trading immediately after the SIP Halt Resume Time.²⁹

Proposed Rule 11.23(b)(2)(C) would state that trading will resume and orders will be accepted pursuant to the reopening process found in current Rule 11.7(e). The Exchange proposes to amend Rule 11.7(e) to make clear that the rule only applies to the resumption of trading following a Regulatory Halt and to amend the cross-reference to the

²⁷ This is consistent with the Amended CTA/CQ Plan. See Amended CTA/CQ Plan, Section XI(a)(iv)(A).

²⁸ See Partial Amendment No. 1 to the CTA/CQ Plans, dated March 31, 2021.

²⁹ See Partial Amendment No. 2 of Trading Halt Amendments to the CTA/CQ Plan, dated April 7, 2021.

²⁶ See Rule 11.1(c).

rule associated with halts due to a Market-Wide Circuit Breaker. Rule 11.7(e) describes the re-opening process for all securities subject to a Regulatory Halt and is consistent with current practice.

Operational Halt

The Exchange proposes in Rule 11.23(c) to address Operational Halts, which are non-regulatory in nature and apply only to the Exchange that calls the halt. As described above, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.³⁰ As part of the Exchange’s assessment with the other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate.³¹ In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan) if it affects multiple markets, so a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 11.23(c)(1) would specify the Exchange’s authority to initiate an Operational Halt, which is discretionary, and provide that the Exchange may declare an Operational Halt for any security trading on the Exchange if it is experiencing

Extraordinary Market Activity on the Exchange (proposed Rule 11.23(c)(1)(A)) or when otherwise necessary to maintain a fair and orderly market or in the public interest (proposed Rule 11.23(c)(1)(B)).

Under proposed Rule 11.23(c)(2) the Exchange would notify the Processor if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or if it has declared an Operational Halt or suspension of trading in one or more Eligible Securities (as that term is defined in the Amended CTA/CQ Plan), pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 11.23(c)(3) will clarify how the Exchange resumes trading after an Operational Halt. Proposed Rule 11.23(c)(3)(A) provides that the Exchange would resume trading when it determines that trading may resume in a fair and orderly manner consistent with the Exchange’s rules. Proposed Rule 11.23(c)(3)(B) specifies that the Exchange would resume trading following an Operational Halt pursuant to Rule 11.7(f). The Exchange proposes adding subsection (f) to Rule 11.7 to describe the Exchange’s re-opening process for a security subject to an Operational Halt, which differs from the process of re-opening a security following a Regulatory Halt. Proposed Rule 11.7(f) describes the Exchange’s current practice for re-opening securities that are not subject to a Regulatory Halt and states that while a security is subject to an Operational Halt, orders will not be accepted for queuing prior to the security’s resumption of trading and that any open orders on the EDGA Book³² will be cancelled.³³ Proposed Rule 11.7(f)(1) states that a security subject to an Operational Halt will return to trading when the Exchange declares that trading may resume pursuant to Rule 11.23(c)(3).

Proposed Rule 11.23(c)(4) provides that trading in a halted security shall resume at the time specified by the Exchange in a notice. It would further specify that the Exchange would notify all other Plan participants and the SIP of such Operational Halt as well as provide notice that an Operational Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange.

If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange is proposing to modify Rules 11.7 (Opening Process), Rule 11.8 (Order Types), Rule 11.10 (Order Execution), Rule 11.11 (Routing to Away Trading Centers), Rule 11.20 (Obligations of Market Makers), and Rule 14.1 (Unlisted Trading Privileges) that cross reference Rule 11.16 in light of the reorganization of current Rule 11.16 into Rules 11.23 and 11.24. Rule 11.8(a)(2), Rule 11.10(a)(3), Rule 11.11(b), Rule 11.20(d)(2)(D) and Rule 11.20(d)(2)(E) will be modified to update a cross reference to the Rule that governs Limit Up-Limit Down procedures. Additionally, the introductory text to Rule 11.11 will be amended to include the word “Rule” that was inadvertently omitted. Rule 11.7(e) will be modified to update a cross reference to the Rule that governs halts under a Market-Wide Circuit Breaker. In addition, Rule 11.7(e) will be modified to include the word “Regulatory” in order to indicate its applicability only to Regulatory Halts. Rule 14.1(c)(3) will be modified to update a cross reference to current Rule 11.16. Rule 14.1 *Interpretation and Policies* .01 will be modified to correct an incorrect rule reference to Rule 14.1(c)(4)(A) and (B) to properly reflect Rule 14.1(c)(3)(A) and (B). The Exchange notes that the changes described above are not substantive and serve only to update cross references to rules that have been relocated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section

³⁰ See Rule 11.1(c). The Exchange also notes that its proposed Rule 11.28(c) regarding Operational Halts is substantially identical to similar rule changes filed by competitor exchanges. See, e.g., Securities Exchange Act Release No. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022), SR-PHLX-2022-49; Securities Exchange Act Release No. 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023), SR-PEARL-2023-11; and Securities Exchange Act Release No. 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023), SR-MEMX-2023-11.

³¹ Differences between Cboe BZX and the Exchange’s proposals as it relates to Operational Halts stem from Cboe BZX’s status as a Primary Listing Market, unlike the Exchange.

³² See Rule 1.5(e).

³³ The Exchange notes that its re-opening process for securities subject to an Operational Halt is simply to open the security for trading. There is no queuing process or re-opening auction associated with the re-opening of a security subject to an Operational Halt.

³⁴ 15 U.S.C. 78f(b).

6(b)(5)³⁵ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act³⁷ because they will foster competition and coordination with persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways.

This avoids the “brittle market” risk where an isolated event at a single market forces all markets trading equity securities to halt or halts trading in all securities where the issue impacted only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act’s goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rules’ focus of responsibility on the Primary Listing Market for decisions related to a Regulatory Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security, such as on the Exchange, or in the over-the-counter market, regulated by FINRA. The Exchange is responsible for monitoring activity on its own markets, but also must honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events and ensure that all trading centers recognize a Regulatory Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended CTA/CQ Plan.

The Exchange believes that the other definitions in the proposed rules are also consistent with the Act. For example, the proposed rules would define what constitutes Extraordinary Market Activity, consistent with the amended definition of that term in the Amended CTA/CQ Plan, thereby furthering the Act’s goal of promoting fair and orderly markets. The Exchange is also proposing to adopt definitions for “SIP Outage,” “Material SIP Latency” and “SIP Halt,” to explicitly address situations that may disrupt the markets, and these definitions are identical to the definitions in the Amended CTA/CQ Plan. The proposed rules provide guidance on when the Exchange should seek information from the Operating Committee, other SROs and market participants as well as means for dissemination of important information to the market, consistent with the Amended CTA/CQ Plan. The Exchange believes these provisions strike the right

balance in outlining a process to address unforeseen events without preventing SROs from taking action needed to protect the market.

The Exchange believes that the proposed rules, which make halts more consistent across exchange rules, are consistent with the Act in that they will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple trading centers are impacted in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rules relating to Regulatory Halts focus primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular market.

Also consistent with the Act, and with the Amended CTA/CQ Plan, is the Exchange’s proposal in Rule 11.23(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that calls the halt. As noted earlier, the Exchange presently has the ability to implement operational halts and local trading suspensions, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.³⁸ The Exchange also notes that its proposed Rule 11.23(c) regarding Operational Halts is substantially identical to the proposals filed by competitor exchanges,³⁹ and is therefore not novel.

The Exchange believes that its proposal to introduce Rule 11.7(f) is consistent with the Act because it will describe the Exchange’s ability to accept and process orders during an Operational Halt and describe the re-opening process for securities subject to an Operational Halt, which will provide clarity to market participants about how their orders will behave during an Operational Halt and describe how a security subject to an Operational Halt will resume trading.

Additionally, the proposed conforming changes to Rules 11.7, 11.8, 11.10, 11.11, 11.20, and 14.1 are consistent with the Act in that they seek to provide the correct reference to the Limit Up-Limit Down procedures and halts, suspensions, or trading pauses

³⁵ 15 U.S.C. 78f(b)(5).

³⁶ *Id.*

³⁷ *Id.*

³⁸ See Rule 11.1(c).

³⁹ *Supra* note 30.

due to Market-Wide Circuit Breakers without modification from current Rule 11.16. The Exchange believes that it is consistent with the Act to reorganize the text related to Market-Wide Circuit Breakers currently codified in Rule 11.16(a)–(d), (g)–(j) into Rule 11.24 as it would provide clarity to market participants and better align with how the rules of other market centers are currently organized.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act⁴⁰ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities, consistent with the Amended CTA/CQ Plan. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure that all SROs handle the situations covered therein in a consistent manner and ensure that all trading centers handle a Regulatory Halt consistently. The Exchange understands that all other non-Primary Listing Markets intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that its proposals concerning Operational Halts impose an undue burden on competition. Under the existing Rules, the Exchange already possesses discretionary authority to impose Operational Halts for various reasons, including because of an order imbalance or influx that causes another national securities exchange to impose a trading halt in a security.⁴¹ As described earlier, the proposed Rule change clarifies and broadens the circumstances in which the Exchange may impose such Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive

impact whatsoever. Indeed, the Exchange expects that other exchanges will adopt similar rules and procedures to govern operational halts, to the extent that they have not done so already.⁴²

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers. In addition, the declaration and timing of trading halts and the resumption of trading is designed to avoid any advantage to those who can react more quickly than other participants. The proposals encourage early and frequent communication among the SROs, SIPs and market participants to enable the dissemination of timely and accurate information concerning the market to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁴³ and Rule 19b-4(f)(6)⁴⁴ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-011 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-CboeEDGX-2026-011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2026-011 and should be submitted on or before April 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Sherry R. Haywood,
Assistant Secretary.

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⁴⁰ 15 U.S.C. 78f(b)(8).

⁴¹ See Rule 11.1(c).

⁴² See, e.g., Securities Exchange Act Release No. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022), SR-PHLX-2022-49; Securities Exchange Act Release No. 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023), SR-PEARL-2023-11; and Securities Exchange Act Release No. 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023), SR-MEMX-2023-11.

⁴³ 15 U.S.C. 78s(b)(3)(A).

⁴⁴ 17 CFR 240.19b-4(f)(6).

⁴⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104989; File No. SR-CboeEDGA-2026-005]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rules 11.22 and 11.23 Relating the Regulatory and Operational Trading Halts, Integrate Several Definitions and Concepts From the Amended CTA/CQ Plan, Reorganize Rule 11.16, and To Make Conforming Changes to Related Rules

March 13, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 6, 2026, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to adopt Rules 11.22 and 11.23 to integrate several definitions and concepts from the Amended CTA/CQ Plan and to reorganize Rule 11.16 in light of the Exchange’s experience with applying the rule during its time as a national securities exchange and to make conforming changes to related rules. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with adoption of Amended CTA/CQ Plan proposed by its participants (“Amended CTA/CQ Plan”),⁵ the Exchange proposes to adopt Rules 11.22 and 11.23 to integrate several definitions and concepts from the Amended CTA/CQ Plan and to reorganize existing Rule 11.16 in light of the Exchange’s experience with applying the rule during its time as a national securities exchange.⁶ Current

⁵ On February 23, 2021, the participants of the CTA/CQ Plans filed Amendment 36 to the CTA Plan and Amendment 27 to the CQ Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Books, Chairman, Operating Committee, CTA/CQ Plans, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021. See Securities Exchange Act Release No. 34-92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR-CTA/CQ-2021-01). The Amended CTA/CQ Plan includes provisions requiring participant self-regulatory organizations (“SROs”) to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the CTA/CQ Plans, and the plan for consolidation of data for NASDAQ-listed securities, The Joint Self-Regulatory Organization Plan Governing The Collection, Consolidation and Dissemination of Quotation and Transaction Information For NASDAQ-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (“UTP Plan”), include provisions similar to the changes proposed by the Exchange in this filing.

⁶ The Exchange notes that it is a participant of the transaction reporting plan governing Tape B securities. Each transaction reporting plan has a securities information processor (“SIP”) responsible for consolidation of information for the plan’s securities, pursuant to Rule 603 of Regulation NMS. The transaction reporting plans for BZX-listed securities are known as the “Consolidated Tape System and Consolidated Quotations System Plan (collectively, the “CTA/CQ Plans”). Pursuant to the CTA/CQ Plans, the Securities Industry Automation Corporation (“SIAC”) consolidates order and trade data from all markets trading BZX-listed securities. The Exchange uses the term “CTA/CQ SIP” herein when referring specifically to the SIP responsible for consolidation of information in BZX-listed securities. BZX is an affiliate of the Exchange and

Rule 11.16 would be reorganized to include only the Limit Up-Limit Down Mechanism.⁷ Proposed Rule 11.22 would be entitled “Trading Halts” and would set forth the Exchange’s authority to halt trading under various circumstances.⁸ Proposed Rule 11.23 would be entitled “Trading Halts Due to Extraordinary Market Volatility” and would contain the rule text related to Market-Wide Circuit Breakers currently codified in Rule 11.16(a)–(d), (g)–(j). As part of these changes, the Exchange will create categories of regulatory and operational halts, improve the rule’s clarity, and adopt defined terms from the Amended CTA/CQ Plan. In addition, the Exchange is updating cross references in other rules that are affected by the proposed changes.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events which might impact multiple exchanges are handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is described below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange that is responsible for a number of regulatory functions.⁹ These include confirming that the security continues to meet the exchange’s listing

serves as a Primary Listing Market, unlike the Exchange. *Infra* note 6.

⁷ See Securities Exchange Act Release No. 88704 (April 21, 2020), 85 FR 23383 (April 27, 2020) (File No. 4-631) (approving the Twentieth Amendment to the National Market System Plan to Address Extraordinary Market Volatility).

⁸ The Exchange notes that its sister exchange, Cboe BZX Exchange, Inc. (“Cboe BZX”), filed a similar proposed rule change with the Commission. The Exchange’s proposal provides the Exchange with less authority to declare halts in the event of regulatory or operational issues than under Cboe BZX’s proposal because the Exchange, unlike Cboe BZX, is not a Primary Listing Market. Given the Exchange’s status as a non-Primary Listing Market, certain definitions and concepts from the Amended CTA/CQ Plan, integrated in Cboe BZX’s proposal, are not included herein.

⁹ The Exchange is proposing to adopt Primary Listing Market as a new term, defined in the CTA/CQ Plans, Section XI(a)(i)(H), as follows: “[T]he national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.”

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

standards, monitoring trading in that security and taking action to halt trading in the security when necessary to protect investors and to ensure a fair and orderly market. While these core responsibilities remain with the primary listing venue, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. ("FINRA"). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,¹⁰ and may only trade the security once the Primary Listing Market has cleared the security to resume trading.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market.

In addition to establishing common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues, the Exchange is reorganizing the rule to improve clarity. The Exchange will implement all of the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish a Trade Desk Notice at least 30 business days prior to implementing the proposed changes.

Definitions

The Exchange proposes adding a definitions section as Rule 11.22(a) to consolidate the various definitions that will be used in the Rule, some of which are taken from the Amended CTA/CQ Plan. The Exchange is adopting the following terms from the Amended CTA/CQ Plan: "Operating Committee," "Operational Halt," "Primary Listing Market," "Processor,"¹¹ "Regulatory

Halt," "SIP Halt," and "SIP Halt Resume Time." The Exchange is adopting a modified form of the term "Extraordinary Market Activity" from the Amended CTA/CQ Plan, as described below. The definitions of "Post-Closing Session," "Pre-Opening Session," "Regular Trading Hours," and "UTP Derivative Security" are currently defined in Rule 1.5(r), (s), (y), and (gg) respectively and have been cross-referenced in the definitions section.¹²

First, the Exchange proposes to add the definition of "Primary Listing Market"¹³ to Rule 11.22(a), which will have the same meaning as in the Amended CTA/CQ Plan, Section XI(a)(i)(H). As is currently the case under Rule 14.1(c)(3), with respect to UTP Derivative Securities, and under the CTA/CQ Plans, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches the language used in the definition of "Primary Listing Exchange" in the Limit Up-Limit Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add the definition of "Extraordinary Market Activity" to Rule 11.28(a), which would represent a modified version of the term defined in the Amended CTA/CQ Plan, Section XI(a)(i)(A).¹⁴ Specifically, the

Exchange proposes to remove the concept of a "market-wide basis" from the Amended CTA/CQ Plan's definition of Extraordinary Market Activity for purposes of the Exchange's Rules because the term "Extraordinary Market Activity" would only be used in the Exchange's Rules as a basis for the Exchange to initiate an Operational Halt, which would only occur on the market declaring the halt (*i.e.*, the Exchange).¹⁵ The current rule does not include a definition for Extraordinary Market Activity.

The next set of new proposed definitions would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of "Extraordinary Market Activity" (as defined in the Amended CTA/CQ Plan), the Exchange believes that the critical role of the SIPs in market infrastructure factors in favor of additional guidance on how such events will be handled. The definitions of "SIP Halt Resume Time," and "SIP Halt" are intended to provide additional guidance and specific processes to address this subset of potential market issues.¹⁶ In addition, the Exchange is proposing to define terms related to SIP governance needed in order to understand these definitions:

- "Processor" or "SIP"¹⁷ have the same meaning as the term "Processor" set forth in the CTA/CQ Plans, namely the entity selected by the Participants to perform the processing functions set forth in the Plans. Because the terms "Processor" and "SIP" are also used throughout the Rules, at times, to apply to processors of information furnished

security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, or transaction information for a sustained period.

¹⁵ The Exchange proposes to define "Extraordinary Market Activity" to mean a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition in the Exchange's rules, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers of their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.

¹⁶ The Exchange proposes to define the terms "SIP Halt Resume Time" and "SIP Halt" to have the same meaning as in the Amended CTA/CQ Plan.

¹⁷ See proposed Rule 11.22(a)(7).

¹² As noted above, the Exchange is adopting several new terms that have the same meaning as those terms are defined in the Amended CTA/CQ Plan. Each of the national market system plans governing the single plan processors have identical definitions of these terms, thus there will be uniformity in the meaning of the terms among such plans as well as among the rules of the SROs.

¹³ See proposed Rule 11.22(a)(6).

¹⁴ In the Amended CTA/CQ Plan, "Extraordinary Market Activity" means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition in the Amended CTA/CQ Plan, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the

¹⁰ See proposed Rule 11.22(a)(8).

¹¹ The Exchange proposes to also define the term "SIP" to have the same meaning as the term "Processor" as set forth in the Amended CTA/CQ Plan. Because the terms "Processor" and "SIP" are also used throughout the Rules, at time, to apply to processors of information furnished pursuant to the Nasdaq UTP Plan ("UTP Plan"), the term "Processor" may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the UTP Plan.

pursuant to the Nasdaq UTP Plan, the term “Processor” and “SIP” may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the Nasdaq UTP Plan.

- “Operating Committee”¹⁸ is defined as having the same meaning as in the CTA/CQ Plans, namely the committee charged with administering the CTA/CQ Plans.

The Exchange is proposing to adopt a category of Regulatory Halt, called a “SIP Halt,”¹⁹ which will have the same meaning as that term is defined in Section XI(a)(i)(K) of the CTA/CQ Plans, namely “a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.” This new category of Regulatory Halt will address situations where the Primary Listing Market declares a Regulatory Halt in one or more securities as a result of a SIP Outage²⁰ or Material SIP Latency.²¹

The Exchange proposes to add a definition of “Regulatory Halt”²² as having the same meaning as in Section XI(a)(i)(J) of the Amended CTA/CQ Plan, which defines a Regulatory Halt to mean a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers²³ for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up-Limit Down, a halt based on

Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan), a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.

Finally, the Exchange proposes to add a definition of “Operational Halt,”²⁴ as having the same meaning as in Section XI(a)(i)(G) of the Amended CTA/CQ Plan, which defines an Operational Halt to mean “a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.”²⁵ An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the impacted securities. In practice, the Exchange has always had the capacity to implement operational halts in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.²⁶ The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.

Regulatory Halt Types

Proposed Rule 11.22(b) would set forth requirements relating to Regulatory Halts.

Authority To Initiate a Regulatory Halt

The Exchange proposes to consolidate the various types of situations that form the basis for declaring a Regulatory Halt in proposed Rule 11.22(b)(1). In this subsection, the Exchange would identify all of the bases for its Regulatory Halt authority, including cross-referencing to current rules describing existing halt authority and by adding the new Regulatory Halt authority consistent with the Amended CTA/CQ Plan.

Proposed Rule 11.22(b)(1)(A) describes “Mandatory Halts,” where the Exchange must issue a Regulatory Halt. The proposed rule would identify four categories of Regulatory Halts:

- Pursuant to proposed Rule 11.22(b)(1)(A)(i) regarding the Market-Wide Circuit Breakers, which will be retained without modification in proposed Rule 11.23 (currently codified in Rule 11.16(a)–(d); (f)–(j)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.22(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

- Pursuant to proposed Rule 11.22(b)(1)(A)(ii) regarding the Limit

Up-Limit Down Mechanism (proposed Rule 11.16). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.22(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan. The Exchange, as a non-Primary Listing Market, does not itself declare trading pauses pursuant to the Limit Up-Limit Down Mechanism, but rather implements such pauses declared by Primary Listing Markets.

- Pursuant to proposed Rule 11.22(b)(1)(A)(iii), which would provide that the Exchange must halt trading when the Primary Listing Market declares a SIP Halt or halts trading based on Extraordinary Market Activity. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.22(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

- Pursuant to proposed Rule 11.22(b)(1)(A)(iv), which would provide that the Exchange would honor a Regulatory Halt initiated by the Primary Listing Market for any security listed on the Exchange. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 11.22(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

The Exchange proposes to add proposed Rule 11.22(b)(1)(A)(iv)(a), which makes clear that the start time of a Regulatory Halt is the time the Primary Listing Market declares the Regulatory Halt, regardless of whether communication issues impact the dissemination of notice of the Halt.²⁷ This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all Trading Centers. However, a fixed “official” Regulatory Halt time will allow SROs to revisit trades after the fact and determine in a consistent manner whether specific trades should stand.

¹⁸ See proposed Rule 11.22(a)(3).

¹⁹ See proposed Rule 11.22(a)(10).

²⁰ SIP outage means a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future. See Amended CTA/CTA Plan, Section XI(a)(i)(M).

²¹ Material SIP latency means a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the Processor’s vendor lines, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future. See Amended CTA/CTA Plan, Section XI(a)(i)(E).

²² See proposed Rule 11.22(a)(8).

²³ See Amended CTA/CQ Plan Section XI(a)(i)(N). A “Trading Center” has the same meaning as that term is defined in Rule 600(b)(82) of Regulation NMS.

²⁴ See proposed Rule 11.22(a)(4).

²⁵ A “Market” has the same meaning as that term is defined in Section XI(a)(i)(C) of the Amended CTA/CQ Plan.

²⁶ See Rule 11.1(c).

²⁷ This is consistent with the Amended CTA/CQ Plan. See Amended CTA/CQ Plan, Section XI(a)(iv)(A).

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange, the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith,²⁸ and certain parts of the complex process of reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP), the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Regular Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 11.22(b)(2), which incorporates Section XI(a)(v)(A) and Section XI(a)(vi)(C) of the Amended CTA/CQ Plan, is divided into the following two subsections concerning resumption of trading: (A) after a Regulatory Halt other than a SIP Halt; and (B) after a SIP Halt. Proposed Rule 11.22(b)(2)(A)(i) provides that, for a Regulatory Halt other than a SIP Halt, the Exchange may resume trading after the Exchange receives notification from the Primary Listing Market that the Regulatory Halt has been terminated.

Proposed Rule 11.22(b)(2)(A) provides the process to be followed when resuming trading upon the conclusion of Regulatory Halts other than SIP Halts. The new rule would effectuate Section XI(a)(v) of the Amended CTA/CQ Plan.

Proposed Rule 11.22(b)(2)(B) would address the resumption of trading following a SIP Halt. The new rule would effectuate Section XI(a)(vi) of the Amended CTA/CQ Plan. Proposed Rule 11.22(b)(2)(B)(i) would provide that, for securities subject to a SIP Halt initiated by another exchange that is the Primary Listing Market, during Regular Trading Hours, the Exchange may resume trading after trading has resumed on the

Primary Listing Market or notice has been received from the Primary Listing Market that trading may resume. During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, the Exchange may resume trading in that security. Outside Regular Trading Hours, the Exchange may resume trading immediately after the SIP Halt Resume Time.²⁹

Proposed Rule 11.22(b)(2)(C) would state that trading will resume and orders will be accepted pursuant to the re-opening process found in current Rule 11.7(e). The Exchange proposes to amend Rule 11.7(e) to make clear that the rule only applies to the resumption of trading following a Regulatory Halt and to amend the cross-reference to the rule associated with halts due to a Market-Wide Circuit Breaker. Rule 11.7(e) describes the re-opening process for all securities subject to a Regulatory Halt and is consistent with current practice.

Operational Halt

The Exchange proposes in Rule 11.22(c) to address Operational Halts, which are non-regulatory in nature and apply only to the Exchange that calls the halt. As described above, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.³⁰ As part of the Exchange’s assessment with the other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate.³¹ In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market

disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan) if it affects multiple markets, so a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 11.22(c)(1) would specify the Exchange’s authority to initiate an Operational Halt, which is discretionary, and provide that the Exchange may declare an Operational Halt for any security trading on the Exchange if it is experiencing Extraordinary Market Activity on the Exchange (proposed Rule 11.22(c)(1)(A)) or when otherwise necessary to maintain a fair and orderly market or in the public interest (proposed Rule 11.22(c)(1)(B)).

Under proposed Rule 11.22(c)(2) the Exchange would notify the Processor if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or if it has declared an Operational Halt or suspension of trading in one or more Eligible Securities (as that term is defined in the Amended CTA/CQ Plan), pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 11.22(c)(3) will clarify how the Exchange resumes trading after an Operational Halt. Proposed Rule 11.22(c)(3)(A) provides that the Exchange would resume trading when it determines that trading may resume in a fair and orderly manner consistent with the Exchange’s rules. Proposed Rule 11.22(c)(3)(B) specifies that the Exchange would resume trading following an Operational Halt pursuant to Rule 11.7(f). The Exchange proposes adding subsection (f) to Rule 11.7 to describe the Exchange’s re-opening process for a security subject to an Operational Halt, which differs from the process of re-opening a security following a Regulatory Halt. Proposed Rule 11.7(f) describes the Exchange’s current practice for re-opening securities that are not subject to a Regulatory Halt and states that while a security is subject to an Operational Halt, orders will not be accepted for queuing prior to the security’s resumption of trading and that any open

²⁹ See Partial Amendment No. 2 of Trading Halt Amendments to the CTA/CQ Plan, dated April 7, 2021.

³⁰ See Rule 11.1(c). The Exchange also notes that its proposed Rule 11.28(c) regarding Operational Halts is substantially identical to similar rule changes filed by competitor exchanges. See, e.g., Securities Exchange Act Release No. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022), SR-PHLX-2022-49; Securities Exchange Act Release No. 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023), SR-PEARL-2023-11; and Securities Exchange Act Release No. 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023), SR-MEMX-2023-11.

³¹ Differences between Cboe BZX and the Exchange’s proposals as it relates to Operational Halts stem from Cboe BZX’s status as a Primary Listing Market, unlike the Exchange.

²⁸ See Partial Amendment No. 1 to the CTA/CQ Plans, dated March 31, 2021.

orders on the EDGA Book³² will be cancelled.³³ Proposed Rule 11.7(f)(1) states that a security subject to an Operational Halt will return to trading when the Exchange declares that trading may resume pursuant to Rule 11.22(c)(3).

Proposed Rule 11.22(c)(4) provides that trading in a halted security shall resume at the time specified by the Exchange in a notice. It would further specify that the Exchange would notify all other Plan participants and the SIP of such Operational Halt as well as provide notice that an Operational Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange is proposing to modify Rules 11.7 (Opening Process), Rule 11.8 (Order Types), Rule 11.10 (Order Execution), Rule 11.11 (Routing to Away Trading Centers), Rule 11.20 (Obligations of Market Makers), and Rule 14.1 (Unlisted Trading Privileges) that cross reference Rule 11.16 in light of the reorganization of current Rule 11.16 into Rules 11.22 and 11.23. Rule 11.8(a)(2), Rule 11.10(a)(3), Rule 11.11(b), Rule 11.20(d)(2)(D) and Rule 11.20(d)(2)(E) will be modified to update a cross reference to the Rule that governs Limit Up-Limit Down procedures. Additionally, the introductory text to Rule 11.11 will be amended to include the word “Rule” that was inadvertently omitted. Rule 11.7(e) will be modified to update a cross reference to the Rule that governs halts under a Market-Wide Circuit Breaker. In addition, Rule 11.7(e) will be modified to include the word “Regulatory” in order to indicate its applicability only to Regulatory Halts.

Rule 14.1(c)(3) will be modified to update a cross reference to current Rule 11.16. Rule 14.1 *Interpretation and Policies* .01 will be modified to correct an incorrect rule reference to Rule 14.1(c)(4)(A) and (B) to properly reflect Rule 14.1(c)(3)(A) and (B). The Exchange notes that the changes described above are not substantive and serve only to update cross references to rules that have been relocated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁵ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act³⁷ because they will foster competition and coordination with

persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways. This avoids the “brittle market” risk where an isolated event at a single market forces all markets trading equity securities to halt or halts trading in all securities where the issue impacted only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act’s goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rules’ focus of responsibility on the Primary Listing Market for decisions related to a Regulatory Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security, such as on the Exchange, or in the over-the-counter market, regulated by FINRA. The Exchange is responsible for monitoring activity on its own markets, but also must honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events and ensure that all trading centers recognize a Regulatory Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended CTA/CQ Plan.

³² See Rule 1.5(e).

³³ The Exchange notes that its re-opening process for securities subject to an Operational Halt is simply to open the security for trading. There is no queuing process or re-opening auction associated with the re-opening of a security subject to an Operational Halt.

³⁴ 15 U.S.C. 78f(b).

³⁵ 15 U.S.C. 78f(b)(5).

³⁶ *Id.*

³⁷ *Id.*

The Exchange believes that the other definitions in the proposed rules are also consistent with the Act. For example, the proposed rules would define what constitutes Extraordinary Market Activity, consistent with the amended definition of that term in the Amended CTA/CQ Plan, thereby furthering the Act's goal of promoting fair and orderly markets. The Exchange is also proposing to adopt definitions for "SIP Outage," "Material SIP Latency" and "SIP Halt," to explicitly address situations that may disrupt the markets, and these definitions are identical to the definitions in the Amended CTA/CQ Plan. The proposed rules provide guidance on when the Exchange should seek information from the Operating Committee, other SROs and market participants as well as means for dissemination of important information to the market, consistent with the Amended CTA/CQ Plan. The Exchange believes these provisions strike the right balance in outlining a process to address unforeseen events without preventing SROs from taking action needed to protect the market.

The Exchange believes that the proposed rules, which make halts more consistent across exchange rules, are consistent with the Act in that they will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple trading centers are impacted in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rules relating to Regulatory Halts focus primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular market.

Also consistent with the Act, and with the Amended CTA/CQ Plan, is the Exchange's proposal in Rule 11.22(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that calls the halt. As noted earlier, the Exchange presently has the ability to implement operational halts and local trading suspensions, but such halts are not currently referred to as "operational halts" in the Exchange's rules.³⁸ The Exchange also notes that its proposed Rule 11.22(c) regarding

Operational Halts is substantially identical to the proposals filed by competitor exchanges,³⁹ and is therefore not novel.

The Exchange believes that its proposal to introduce Rule 11.7(f) is consistent with the Act because it will describe the Exchange's ability to accept and process orders during an Operational Halt and describe the re-opening process for securities subject to an Operational Halt, which will provide clarity to market participants about how their orders will behave during an Operational Halt and describe how a security subject to an Operational Halt will resume trading.

Additionally, the proposed conforming changes to Rules 11.7, 11.8, 11.10, 11.11, 11.20, and 14.1 are consistent with the Act in that they seek to provide the correct reference to the Limit Up-Limit Down procedures and halts, suspensions, or trading pauses due to Market-Wide Circuit Breakers without modification from current Rule 11.16. The Exchange believes that it is consistent with the Act to reorganize the text related to Market-Wide Circuit Breakers currently codified in Rule 11.16(a)–(d), (g)–(j) into Rule 11.23 as it would provide clarity to market participants and better align with how the rules of other market centers are currently organized.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act⁴⁰ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities, consistent with the Amended CTA/CQ Plan. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure that all SROs handle the situations covered therein in a consistent manner and ensure that all

trading centers handle a Regulatory Halt consistently. The Exchange understands that all other non-Primary Listing Markets intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that its proposals concerning Operational Halts impose an undue burden on competition. Under the existing Rules, the Exchange already possesses discretionary authority to impose Operational Halts for various reasons, including because of an order imbalance or influx that causes another national securities exchange to impose a trading halt in a security.⁴¹ As described earlier, the proposed Rule change clarifies and broadens the circumstances in which the Exchange may impose such Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive impact whatsoever. Indeed, the Exchange expects that other exchanges will adopt similar rules and procedures to govern operational halts, to the extent that they have not done so already.⁴²

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers. In addition, the declaration and timing of trading halts and the resumption of trading is designed to avoid any advantage to those who can react more quickly than other participants. The proposals encourage early and frequent communication among the SROs, SIPs and market participants to enable the dissemination of timely and accurate information concerning the market to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

⁴¹ See Rule 11.1(c).

⁴² See, e.g., Securities Exchange Act Release No. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022), SR-PHLX-2022-49; Securities Exchange Act Release No. 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023), SR-PEARL-2023-11; and Securities Exchange Act Release No. 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023), SR-MEMX-2023-11.

³⁸ See Rule 11.1(c).

³⁹ *Supra* note 28.

⁴⁰ 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁴³ and Rule 19b-4(f)(6)⁴⁴ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ChoeEDGA-2026-005 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-ChoeEDGA-2026-005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable

information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-ChoeEDGA-2026-005 and should be submitted on or before April 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-05230 Filed 3-17-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0201]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 17a-2

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 17a-2 (17 CFR 240.17a-2), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17a-2—Recordkeeping Requirements Relating to Stabilizing Activities—requires underwriters to maintain information regarding stabilizing activities conducted in accordance with Rule 104 of Regulation M. The collections of information under Regulation M and Rule 17a-2 are necessary for covered persons to obtain certain benefits or to comply with certain requirements. The collections of information are necessary to provide the Commission with information regarding syndicate covering transactions and penalty bids. The Commission may review this information during periodic examinations or with respect to investigations. Except for the information required to be kept under

Rule 104(i) (17 CFR 242.104(i)) and Rule 17a-2(c), none of the information required to be collected or disclosed for PRA purposes will be kept confidential. The recordkeeping requirement of Rule 17a-2 requires the information be maintained in a separate file, or in a separately retrievable format, for a period of three years, the first two years in an easily accessible place, consistent with the requirements of Exchange Act Rule 17a-4(f) (17 CFR 240.17a-4(f)).

There are approximately 647 respondents per year that require an aggregate total of approximately 3,235 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 5 hours to complete. Thus, the total hour burden per year is approximately 3,235 hours. The total internal compliance cost for the respondents is approximately \$530,540 per year, resulting in an internal cost of compliance for each respondent per response of approximately \$820 (*i.e.*, \$530,540/647 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by May 18, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: March 13, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-05233 Filed 3-17-26; 8:45 am]

BILLING CODE 8011-01-P

⁴³ 15 U.S.C. 78s(b)(3)(A).

⁴⁴ 17 CFR 240.19b-4(f)(6).

⁴⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36017; File No. 812-15979]

Dawson Private Markets Evergreen Fund and Dawson Partners (US) Inc.

March 16, 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 sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares, to impose early withdrawal charges, and to impose asset-based distribution and/or service fees.

APPLICANTS: Dawson Private Markets Evergreen Fund and Dawson Partners (US) Inc.

FILING DATE: The application was filed on January 28, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time on April 10, 2026, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Matthew Kuchinsky, Esq., Dawson Partners Inc., *mkuchinsky@*

dawsonpartners.com, and copies to: Nicole M. Runyan, P.C., Kirkland & Ellis LLP, *nicole.runyan@kirkland.com* and Pamela Poland Chen, Kirkland & Ellis LLP, *pamela.chen@kirkland.com*.

FOR FURTHER INFORMATION CONTACT:

Trace W. Rakestraw, Senior Special Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ application, dated January 28, 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. 2026-05286 Filed 3-17-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21450 and #21451; WASHINGTON Disaster Number WA-20025]

Administrative Declaration Amendment of a Disaster for the State of Washington; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correction.

SUMMARY: This is a correction to the Administrative Declaration Amendment of a disaster for the State of Washington dated February 25, 2026.

Incident: 2025 Severe Winter Storms.

DATES: Issued on March 13, 2026.

Incident Period: December 5, 2025 through December 22, 2025.

Physical Loan Application Deadline Date: April 27, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: November 24, 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 Administrative Declaration Amendment for the State of Washington, dated February 25, 2026, and published in the **Federal Register** on February 27, 2026 at 91 FR 9913 in the third column, is hereby corrected to change the incident period to December 5, 2025 through December 22, 2025.

All other information in the amendment 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. 2026-05256 Filed 3-17-26; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No.: FAA-2025-2279; Summary Notice No.—2025-54]

Petition for Exemption; Summary of Petition Received; Drone Amplified Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public’s awareness of, and participation in, the FAA’s exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 7, 2026.

ADDRESSES: Send comments identified by docket number [FAA-2025-2279] using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–2928, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2025–2279.

Petitioner: Drone Amplified Inc.

Section(s) of 14 CFR Affected: § 107.36.

Description of Relief Sought: Drone Amplified Inc seeks relief to perform avalanche mitigation operations with the Freefly Alta X unmanned aircraft system (UAS), weighing less than 55 pounds (lbs.), including payload. The petitioner proposes carrying the MONTIS Payload, an avalanche mitigation system that is carried by a small UAS and can drop charges to trigger avalanches.

[FR Doc. 2026–05239 Filed 3–17–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Operating Limitations at Chicago O'Hare International Airport, Notice of Meeting and Request for Information

AGENCY: Department of Transportation, Federal Aviation Administration (FAA).

ACTION: Notice of scheduling reduction meeting and request for information.

SUMMARY: FAA will conduct a meeting to discuss flight restrictions at Chicago O'Hare International Airport (ORD) to reduce overscheduling and flight delays during peak hours of operation at that airport. This meeting is open to all domestic scheduled air carriers providing service to ORD and to the Chicago Department of Aviation, which is the airport operator of ORD. Registration in advance of the meeting is requested. In addition, FAA invites interested persons to submit written information on such schedule reductions. FAA plans to issue its decision on scheduling limitations in a final order.

DATES:

Scheduling reduction meeting. FAA will reconvene the scheduling reduction meeting on March 19, 2026, beginning at 9:00 a.m., and the meeting will continue until adjourned by the FAA.

Written information. Any written information on the subject of schedule reductions at ORD, including data and views, must be submitted by March 26, 2026. To the extent possible, FAA will consider late-filed submissions in making its determination in its final order.

ADDRESSES:

Scheduling reduction meeting. The meeting will be held in the Bessie Coleman Room at the Orville Wright Building of the FAA, 800 Independence Ave. SW, Washington, DC 20591.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for submitting your information or comments electronically.

Instructions: You must include the agency name and docket number FAA–2004–16944 for this notice at the beginning of the information that you submit. Note that the information received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Submissions to the docket that include trade secrets, confidential, commercial, or financial information, or sensitive security information will not be posted in the public docket. Such information, which should be clearly marked by the submitter, will be placed in a separate

file to which the public does not have access, and a note will be placed in the public docket to state that the agency has received such materials from the submitter.

Privacy: We will post all comments we receive, without change, including any personal information you provide. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending or signing the comment. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket. Alternatively, you may visit the Docket Management Facility in Room W12–140 of the West Building Ground Floor of the Department of Transportation at 1200 New Jersey Avenue SE, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Registration: To register for attendance, contact Al Meilus at the numbers provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email al.meilus@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Act (the Act) at 49 U.S.C. 41722, authorizes the Secretary of Transportation to request domestic air carriers to attend a meeting with the FAA Administrator or his Delegee to discuss flight reductions at any severely congested airport during peak operating hours.

The Department of Transportation (DOT) and FAA have determined that the communicated increase in operations at ORD will exceed the airport's capacity throughout the Summer 2026 scheduling season, March 29, 2026, through October 24, 2026. In addition to planned schedule increases by carriers, ORD continues to undergo long term construction projects that have and will impact operations to varying degrees throughout the Summer 2026 Scheduling Season.

Currently published schedules exceed 3,080 daily operations on peak days (source: Cirium).^{1 2} By comparison, daily scheduled operations for the Summer 2025 Scheduling Season peaked at approximately 2,680 total operations. After reviewing ORD's performance throughout the Summer 2025 scheduling season, March 30, 2025, through October 25, 2025, the FAA finds that an increase of 400 operations would stress the runway, terminal, and air traffic control systems at the airport.

On March 3, 2026, FAA proposed limiting operations at ORD throughout the Summer 2026 Scheduling Season at 2,800 to prevent large-scale operational disruption while also allowing air carriers to operate within the airport's demonstrated manageable capacity. FAA asked to hold discussions with air carriers and the Chicago Department of Aviation on this proposal.³

As part of the scheduling reduction proceedings, FAA continued to evaluate historical data against the air carriers proposed 2026 Summer Scheduling Season throughout this process and has determined that the current level is not sustainable for the upcoming 2026 Summer Scheduling Season. Stable operations at ORD are crucial to maintaining the safety and efficiency of the entire NAS. Disruptions at ORD can, and do, lead to widespread delays and disruptions at other airports. When this occurs, FAA must resort to traffic management tools, such as implementing ground delay programs to alleviate pressure at ORD.

In Summer 2025, ORD had an average on-time performance rate of approximately 75% (source: Cirium). During this period, approximately 56% of departures and 58% of arrivals experienced up to 15 minutes of delay (source: Cirium). Approximately 75% of delayed arrivals and departures were deemed to be reportable delays, or delays measured at 15 minutes or longer (source: Cirium). FAA believes that adding 400 flights to this already congested schedule will lead to inevitable delay and operational

disruption despite the runway facilities and staffing available at the airport.

ORD is currently designated as a Level 2 airport as defined by the International Air Transport Association's (IATA) Worldwide Airport Slot Guidelines. Consistent with IATA Level 2 guidance that prioritizes services operated in the previous equivalent season, the Department and FAA will use the final Summer 2025 schedules as the baseline for determining the appropriate reductions to be borne by each party for the Summer 2026 season.⁴ The Department and FAA previously notified carriers in October 2025 that this baseline would be used to determine scheduling priorities for Summer 2026.⁵ By reducing individual domestic air carrier schedules proportionally based on approved Summer 2025 levels, DOT ensures that the burden of delay reduction is shared across users without picking "winners or losers."

FAA established reduction daily targets by half-hour between 06:00–23:59 local time. These reduction targets can be found in Appendix 1. FAA believes that these reduction targets will balance operations across the day at ORD and allow air traffic control to recover in less congested half-hour periods. Further, these reduction targets are intended to prevent the overscheduling of a given half hour which can lead to cascading delays extending through the remainder of the day. The Appendix lists the actual Summer 2025 Scheduling Season operations, proposed Summer 2026 Scheduling Season operations, and FAA's proposed scheduling limits and reductions by half hour.

As such, the Administrator has determined, pursuant to the Act, that scheduled operations at ORD must be limited to address overscheduling and that a scheduling reduction meeting is necessary in order to discuss flight reductions during peak operating hours. The Secretary of Transportation has also determined, pursuant to the Act, that a scheduling reduction meeting regarding flight reductions at ORD is necessary to meet a serious transportation need or to achieve an important public benefit, both of which include preserving competition, passenger throughput, and access to the airport as much as

possible. In light of these determinations, FAA will conduct a scheduling reduction meeting pursuant to the Act.

As dictated by statute, the scheduling reduction meeting will only address planned scheduled operations by domestic air carriers. The scheduled operations of foreign air carriers are managed under a process defined by the International Air Transport Association (IATA). FAA will initiate steps under the IATA process to manage, if necessary, the scheduled operations of foreign air carriers at ORD that are complementary to the scheduling reduction meeting.

FAA will reconvene the scheduling reduction meeting on Thursday, March 19, 2026, beginning at 9:00 a.m. The meeting will continue until adjourned by FAA.

FAA will transcribe the scheduling reduction meeting, including those sessions in which air carriers offer flight reductions to FAA, as provided for by the procedures outlined below. The transcript and other documents related to the meeting will be available for inspection in Department of Transportation Docket FAA–2004–16944. In addition, any interested person may submit written information to the public docket no later than March 26, 2026. The docket may be accessed via the internet at <http://www.regulations.gov> or at the Docket Management Facility for the Department of Transportation.

After conducting the scheduling reduction meeting and considering all submitted information, FAA will publish its final order on delay reductions at ORD in the **Federal Register**. The order is expected to be effective through the Summer 2026 scheduling season and may restrict service during peak hours by all domestic carriers, including air carriers that are not currently operating at ORD.

To ensure that proper accommodations are afforded at the meeting, all scheduled carriers that wish to attend the scheduling reduction meeting should register for the meeting on or before March 17, 2026. Registration may be accomplished by contacting Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; email al.meilus@faa.gov, identifying the air carrier and its intention to attend the meeting and identifying who will represent the air carrier at the meeting.

FAA's Air Traffic Organization will work with individual carriers to validate

¹ Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Summer 2026 Scheduling Season. October 3, 2025. <https://www.faa.gov/media/106116>.

² The publication of the Summer 2026 Schedule Submission notice was made on the FAA's website due to the lapse in appropriations disrupting timely publication in the **Federal Register**.

³ Operating Limitations at Chicago O'Hare International Airport, Notice of Meeting and Request for Information, 91 FR 10436 (March 3, 2026).

⁴ Final schedules published in Cirium.

⁵ Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Summer 2026 Scheduling Season. October 3, 2025. <https://www.faa.gov/media/106116>.

the schedule information to be used by FAA during the course of the scheduling reduction meeting. Because the scheduling reduction meeting and all preparations for it are subject to the U.S. antitrust laws, FAA has coordinated with the Department of Justice, Antitrust Division, on procedures for conducting the meeting in a way that should facilitate legal compliance and mirror the procedures FAA has used for scheduling reduction meetings in the past.⁶

As noted in this correspondence, communications among carriers regarding competitively sensitive information could result in a violation of the antitrust laws and lead to civil or criminal liability. Thus, the procedures outlined in this notice provide for a series of scheduling reduction sessions to be conducted separately by FAA staff with each air carrier attending the meeting. We may also meet with representatives of the airport operator. During those sessions any scheduled air carrier or the airport operator in attendance may provide other supplemental information to FAA regarding the targeted schedule reductions at ORD. FAA requests the cooperation of all participants at the meeting in adhering to the procedures outlined in this notice.

The text of the FAA letter describing the planned procedures and the text of the Department of Justice letter assessing those procedures are as follows:

March 16, 2026

Omeed A. Assefi, Esq., *Acting Assistant Attorney General, Antitrust Division, Room 3109, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001*

Dear Mr. Assefi:

The Secretary of Transportation has determined, pursuant to 49 U.S.C. 41722,⁷

⁶ See, Operating Limitations at Newark Liberty International Airport, Notice of Meeting and Request for Information, 90 FR 20545 (May 14, 2025).

⁷ § 41722 Delay reduction actions.

(a) Scheduling Reduction Meetings—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

(1) the Administrator determines that it is necessary to convene such a meeting; and

(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or an important public benefit

(b) Meeting Conditions—Any meeting under subsection (a)—

(1) shall be chaired by the Administrator,

(2) shall be open to all scheduled air carriers; and,

that it is necessary to convene a meeting of air carriers with the Administrator of the Federal Aviation Administration (FAA) to discuss flight reductions at Chicago O'Hare International Airport (ORD) in an effort to reduce overscheduling, flight delays and cancellations during peak hours of operation. Because of severe congestion at that airport and the resulting delays, cancellations, and inconvenience to the traveling public, the Administrator intends to convene such a meeting in the immediate future. The purpose of this letter is to describe the format and procedures for the meeting and to ensure that, provided the meeting is conducted in accordance with this letter, the Department of Justice would not seek to challenge as a violation of the U.S. antitrust laws any air carrier's attendance at or participation in the meeting or an air carrier's unilateral actions taken to comply with an Order of the Administrator issued as a result of the meeting.

Meeting Procedures

1. Conduct of the Meeting

The meeting will be conducted under the following procedures:

a. The meeting will be chaired by the Administrator or by a delegate of the Administrator.

b. The meeting will be open to attendance by the ORD airport operator and all scheduled air carriers, and FAA will transcribe the meeting.

c. Representatives of the Department of Justice will be invited to attend.

d. At the beginning of the meeting, the FAA will announce that the meeting and all preparations for it are subject to the antitrust laws and that communications among air carriers regarding competitively sensitive information, such as markets served, prices charged, and marketing plans, could result in a violation of the antitrust laws and lead to civil or criminal liability. The FAA will further announce that, pursuant to advice from the Department of Justice, no communication will be permitted by any air carrier representative in the presence of any representative of another air carrier regarding the subject of flight reductions at ORD or regarding any other competitively sensitive information, including but not limited to markets served, prices charged, and marketing plans.

e. The Administrator will then distribute to the meeting's attendees a list of the number of flights, not specific as to air carrier, during each 30-minute period between 06:00 and

(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

(c) Flight Reduction Targets—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

(d) Delay Reduction Offers—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

(e) Transcript—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

23:59 local time on a representative business day, and he will identify any periods that he considers severely congested, as well as general targets for flight reductions during those periods. This list will not include carrier-specific limitations, targets, or suggested reductions.

f. Each air carrier serving ORD and attending the meeting will then be invited into a separate and confidential session with representatives of the ATO at which the air carrier will be asked to offer flight reductions or schedule modifications. Only representatives of that air carrier and the U.S. Government will be permitted to attend the offer sessions; however, the sessions will be transcribed.

g. Any offer of flight reductions should specify the precise number of arrivals and departures, if any, the submitting air carrier is willing to remove from each of the severely congested periods identified by the Administrator, indicating whether the flight operation(s) would be cancelled or moved to another time period. The offer may not be explicitly contingent on specific flight reductions by other air carriers, but may be conditioned on the Administrator's implementation of an overall reduction of specified numbers of flight operations toward the target during the periods in question. The offer may not contain information from the air carrier on markets served prices charged, marketing plans, or other competitively sensitive matters.

h. After the completion of all such sessions, the FAA will: (1) review the offers made; (2) revise, in light of the offers made, the list of the number of flights, not specific as to air carrier, during each 30-minute period between 06:00 and 23:59 local time on a representative business day; and (3) consult with the Administrator. The Administrator will distribute to the meeting's attendees the carrier non-specific list of the number of flights on a representative business day and he will identify any periods that he continues to consider severely congested and identify targets for flight reductions during those periods.

i. At his discretion, the Administrator or his delegate may repeat steps (f) through (h) and he may continue the schedule reduction meeting as he deems necessary.

j. If the Administrator determines that identifying carrier-specific targets would facilitate voluntary flight reductions and schedule modifications, the Administrator may advise each air carrier separately and confidentially of flight reduction targets specific to that air carrier. No carrier-specific information will be provided to any air carrier other than information regarding that air carrier; however, the Administrator may make general assurances with respect to the overall proportionality of the flight reductions among the air carriers serving ORD.

k. Following the Administrator's identification of further flight reduction targets, each air carrier attending the meeting that serves ORD will be invited to a separate and confidential session with representatives of the FAA, at which the air carrier will be given the opportunity to submit a new or revised offer of flight reductions or schedule modifications.

l. At his discretion, the Administrator or his delegate may repeat steps (j) and (k), and he may continue the schedule reduction meeting as he deems necessary.

m. The Administrator may terminate the schedule reduction meeting at his discretion.

2. Order of the Administrator Concerning Delays at ORD

The FAA will review the final offers of each air carrier attendee at the meeting and recommend a proposed flight reduction plan to the Administrator. After the Administrator's review and approval of the plan, the resulting schedule reductions including carrier-specific limitations, will be published in the **Federal Register** as a final order of the Administrator. The final order of the Administrator will specify a method by which air carriers adversely affected by the order may be relieved of its effect. The order will also be subject to modification by the Administrator.

Please advise if these procedures are acceptable to you.

Sincerely,
William McKenna,
Chief Counsel.

March 16, 2026

William McKenna, *Chief Counsel, U.S. Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591*

Re: Proposed Chicago O'Hare International Airport Scheduling Reduction Meeting

Dear Mr. McKenna:

This letter is written in response to your March 16, 2026, letter describing the planned format of a meeting of air carriers with the Administrator of the Federal Aviation Administration ("FAA") to discuss flight reductions at Chicago O'Hare International Airport ("ORD"). The meeting is being called because the Secretary of Transportation has determined, pursuant to 49 U.S.C. 41722, that the meeting is necessary to address severe congestion at ORD and reduce flight delays during peak hours of operation. We also understand that the meeting is important to meet the serious and unusual situation occurring at ORD right now. You seek assurances that, provided the meeting and related activities are conducted as described in your letter, the Department of Justice would not seek to challenge as a violation of the antitrust laws any air carrier's attendance at or participation in the meeting or any air carrier's unilateral actions taken to comply

with an Order of the Administrator issued as a result of the meeting.

According to your letter, representatives of the Department of Justice will be invited to attend the meeting. At the beginning of the meeting, the FAA's Administrator (or his delegate) will advise all air carriers participating in the meeting that the meeting and all preparations for it are subject to the antitrust laws and that communications among air carriers regarding competitively sensitive information, such as markets served, prices charged, and marketing plans, could result in a violation of the antitrust laws and lead to civil or criminal liability. The Administrator (or his delegate) also will announce that, pursuant to advice from the Department of Justice, no communication will be permitted by any air carrier representative in the presence of any representative of another air carrier regarding flight reductions at ORD or any other competitively sensitive subject, including but not limited to markets served, prices charged, and marketing plans.

At the meeting, the Administrator will distribute to the meeting's attendees a list of the number of flights, not specific as to air carrier, during each 30-minute period from 06:00 to 23:59 local time on a representative business day, and indicate any periods that he considers to be severely congested, and provide general targets for flight reductions during those periods. This list will not identify which air carriers' flights are suggested or targeted to be limited, moved, or eliminated. Each carrier in attendance will then be invited into a separate, confidential discussion with the FAA Air Traffic Organization (ATO) during which the air carrier will be asked to offer specific flight reductions or schedule modifications, which shall not be contingent on reductions offered by another air carrier or air carriers. The offer may not contain information from the air carrier on markets served, prices charged, marketing plans, or other competitively sensitive information. Representatives of the Department of Justice Antitrust Division will be invited to attend each of these individual air carrier offer sessions.

After completion of the individual air carrier sessions, the ATO will revise the list of flights to reflect the individual discussions with the air carriers. The carriers will again be given this list which will not identify flights by air carrier. If the Administrator believes that severely congested time periods still exist, he may set revised targets and have the ATO repeat the individual sessions with

air carriers. Again, representatives of the Antitrust Division will be invited to attend any repeated sessions.

If the Administrator determines that identifying carrier-specific targets is necessary to facilitate voluntary flight reductions and schedule modifications, he may advise each air carrier separately and confidentially of flight reduction targets specific to that air carrier, which information will not be given to any other air carrier or air carriers. The Administrator may also make a general assurance with respect to the overall proportionality of the flight reductions being sought by the FAA from carriers serving ORD.

The Administrator will develop and approve a proposed flight reduction plan and schedule reduction, which will be published in the **Federal Register** as a final order. We believe that it also will be important to competition for the FAA to publicly notify the airlines, the Department of Justice, and the public when the need to restrict flights at ORD has eased enough that the flight reduction and schedule reduction plan is no longer required.

Importantly, the procedures do not provide for any meetings among the air carriers without the FAA and Antitrust Division present. The procedures will not allow any discussion or negotiation among air carriers about flight reductions, prices charged, or markets served. During the course of the meetings, air carriers will not be told schedule reductions or modifications other air carriers are offering or being asked to offer.

For these reasons, the Department is not presently inclined to initiate antitrust enforcement action against any air carrier that participates in the FAA's flight reduction meeting and conducts itself in the manner described in your March 16, 2026, letter. This expresses the Department's current enforcement intention regarding the air carriers' participation in the flight reductions meeting. The Department reserves the right to bring an enforcement action against any conduct that violated the antitrust laws.

Sincerely,
Omeed A. Assefi,

Issued in Washington, DC, on March 16, 2026.

William McKenna,
Chief Counsel.

Appendix 1

Local time	6/25/2026 schedule	1/2 hour cap	Change to 6/25/2026 schedule	6/24/2025 actual	1/2 hour cp	Change to 6/24/2025 actual
6:00	68	60	- 8	53	60	7
6:30	45	60	15	35	60	25
7:00	133	84	- 49	101	84	- 17
7:30	95	84	- 11	88	84	- 4
8:00	75	60	- 15	66	60	- 6
8:30	99	84	- 15	91	84	- 7
9:00	96	84	- 12	89	84	- 5
9:30	108	84	- 24	88	84	- 4
10:00	56	60	4	50	60	10
10:30	103	84	- 19	81	84	3
11:00	67	84	17	64	84	20

Local time	6/25/2026 schedule	1/2 hour cap	Change to 6/25/2026 schedule	6/24/2025 actual	1/2 hour cp	Change to 6/24/2025 actual
11:30	97	84	-13	73	84	11
12:00	74	60	-14	54	60	6
12:30	112	84	-28	91	84	-7
13:00	112	84	-28	98	84	-14
13:30	73	60	-13	74	60	-14
14:00	108	84	-24	93	84	-9
14:30	93	84	-9	82	84	2
15:00	66	60	-6	44	60	16
15:30	97	84	-13	89	84	-5
16:00	94	84	-10	70	84	14
16:30	122	84	-38	91	84	-7
17:00	86	84	-2	91	84	-7
17:30	72	60	-12	66	60	-6
18:00	106	84	-22	104	84	-20
18:30	108	84	-24	114	84	-30
19:00	66	60	-6	56	60	4
19:30	102	84	-18	97	84	-13
20:00	131	84	-47	106	84	-22
20:30	65	60	-5	41	60	19
21:00	97	84	-13	77	84	7
21:30	98	84	-14	38	84	46
22:00	30	50	20	47	50	3
22:30	55	50	-5	22	50	28
23:00	10	30	20	13	30	17
23:30	19	30	11	17	30	13
Total	3,038	2,608	-430	2,554	2,608	54

[FR Doc. 2026-05325 Filed 3-16-26; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Request To Abrogate the Use Restriction Covenant and Right of Reverter, Oak Ridge, TN**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by The City of Oak Ridge ("The City"), TN to abrogate the use restriction covenant and right of reverter for property formerly known as Airport Tract A at Heritage Center, Parcels (P) ED-4A, (P) ED-13, and (P) ED-16, consisting of approximately 105.61 acres.

DATES: Comments must be received on or before April 17, 2026.

ADDRESSES: Comments on this notice may be emailed to the FAA at the following email address: FAA/Memphis Airports District Office, Attn: Jamal R. Stovall, Lead Community Planner, Jamal.Stovall@faa.gov.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Randall W. Hemann, City Manager, City of Oak

Ridge at the following address: 200 South Tulane Avenue, Municipal Building, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT:

Jamal R. Stovall, Lead Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118-2482, Jamal.Stovall@faa.gov. The abrogation release agreement may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to abrogate the use restriction covenant and right of reverter at the City of Oak Ridge, Municipal Building, 200 South Tulane Avenue, Oak Ridge, TN 37830, under the provisions of 49 U.S.C. 47107(h)(2). The FAA determined that the request to abrogate the use restriction covenant(s) and right of reverter submitted by the sponsor meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The request consists of the following:

Pursuant to the authority of 49 U.S.C. 47153 and 40 U.S.C. 101 *et seq.*, Grantor (UNITED STATES OF AMERICA) conveyed the Property subject to use as a public airport in order to expand regional air service in Oak Ridge,

Tennessee for which it was conveyed in perpetuity and as further restricted in the Use of Real Property, and that if the Property ceases to be used or maintained in accordance with the Use Restriction Covenant, all or any portion of the Property shall, in its then existing condition, at the option of the Government, revert to the Government. The City has determined it cannot proceed with the proposed airport aviation project in compliance with the Use Restrictive Covenant and has requested from the FAA to be released so that the City may pursue other beneficial use of the property. The City requests the FAA to abrogate the Use Restriction Covenant and Right of Reverter to allow the redevelopment of the property. The FAA has the authority under the Act to release Grantee from the Use Restrictive Covenant and Right of Reverter. The FAA has determined that abrogation of the Use Restriction Covenant and Right of Reverter is in the best interest of the United States of America.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the City of Oak Ridge.

Issued in Memphis, Tennessee, on March 13, 2026.

Rans D. Black,

Acting Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2026–05241 Filed 3–17–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2026–0298]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 18, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0298 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sharon Cuevas, (202) 923–0974, Office of Operations, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Update the National Review of Quick Clearance Laws.

Background: The objective of this outreach effort is to develop a Quick Clearance Laws State of the Practice Report. The intent is to provide awareness and knowledge of current State Quick Clearance Laws through outreach and encourage states to establish them. TIM programs aim to reduce the duration and impact of incidents on congestion and improve safety for motorists, crash victims, and incident responders through safe quick clearance practices. Additionally, TIM prioritizes effective mitigation practices to return roadways back to normal flow of traffic.

Respondents: The eligible respondents include: 50 State DOTs, District of Columbia, Commonwealth of Puerto Rico, United States.

Frequency: Once.

Estimated Average Burden per Response: 1 hour per respondent.

Estimated Total Annual Burden Hours: 52.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 16, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026–05257 Filed 3–17–26; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0397]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V AISLING

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by

MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0397 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast

Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administration.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-05302 Filed 3-17-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0364]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V TOP CAT

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise

use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0364 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation. **FOR FURTHER INFORMATION CONTACT:** Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-05296 Filed 3-17-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0399]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V CAT 5

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit

comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0399 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation. **FOR FURTHER INFORMATION CONTACT:** Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small

passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains

Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-05307 Filed 3-17-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0398]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V BROADWAY GIRL

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use

U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0398 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment

highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administration.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-05308 Filed 3-17-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0400]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V MOKUME GANE

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed

service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0400 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester’s vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter’s interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

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You may request that MARAD treat your comments as commercially

confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department’s FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT’s compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.
[FR Doc. 2026–05304 Filed 3–17–26; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application

for, and the processing of, special permits from the Department of Transportation’s Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 2, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comment(s) is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the “Nature of Application” portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 4, 2026.

Donald P. Burger,
Director, Special Permits Program.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
10631–M	National Aeronautics and Space Administration.	173.243, 173.244	To modify the special permit to update the engineering documents in paragraph 7.a. of the special permit. (mode 1).

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the

Secretary of the Department of Homeland Security

and the Secretary of the Department of Transportation, respectively.

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
14849–M	Call2Recycle, Inc	172.102(c)(1), 172.303(a), 173.159a(c)(2), 173.185(c), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3), 173.185(d).	To modify the special permit to include ferry vessel as an authorized mode. (modes 1, 2, 3).
20851–M	Call2Recycle, Inc	172.447	To modify the special permit to authorize ferry vessel as an authorized mode. (modes 1, 2).
20902–M	Eastern Upper Peninsula Transportation Authority.	176.164(e)	To modify the special permit to authorize an additional hazardous material. (mode 5).
21023–M	Tire Seal, Inc	173.304(d)	To modify the special permit to authorize additional inside metal containers. (modes 1, 2, 3, 4, 5).
21269–M	Porsche Logistik GmbH	172.101(j)	To modify the special permit to remove the gross weight limitation. (mode 4).
21890–M	Blue Origin, LLC	173.54(l), 173.301(f)(1), 173.302(a)(1)	To modify the special permit to reclassify the explosive hazard. (modes 1, 3).
21985–M	Accuray Incorporated	173.310(a)	To modify the special permit to authorize pneumatic testing. (modes 1, 2, 3, 4, 5).
22008–M	BETA Technologies, Inc	172.101(j)	To modify the special permit to increase the authorized mass of the battery and to remove the CX300 reference. (mode 4).

[FR Doc. 2026–05278 Filed 3–17–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of

Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has granted or denied the application described herein.

DATES: Comments must be received on or before April 17, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and

Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 3, 2026.

Donald P. Burger,
Director, Special Permits Program.

SPECIAL PERMITS DATA—GRANTED

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20297–M	The Cylinder Maintenance Company, Inc.	172.203(a), 172.301(c), 173.302a(b), 180.205, 180.207.	To modify the special permit to change the grantee name and to authorize retesting of ISO 9809–1, –2, and –3 cylinders.
21840–M	Lunar Energy, Inc	172.101(j), 173.185(a)(1)	To modify the special permit to authorize an additional battery.
21968–M	Caterpillar Inc	172.101(j), 173.185(a)(1)	To modify the special permit to authorize an additional marine module which has recently passed UN 38.3 testing.
22000–N	Nouryon Functional Chemicals LLC.	172.203(a), 172.302(c), 173.31(d)(1)(ii).	To authorize the transportation in commerce of tank cars in which the manway cover gasket has been subjected to the leak detection method(s) in lieu of a visual inspection.
22019–N	Explosives Test Center, LLC	172.203(a), 172.301(c), 173.56(b), 173.64(a)(3), 173.65(a).	To authorize a DOT-approved Firework Certification Agency (FCA) to certify Division 1.3 and Division 1.4 fireworks manufactured in accordance with the applicable requirements in APA 87–1B or APA 87–1C, as applicable.

SPECIAL PERMITS DATA—GRANTED—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22021-N	Koch Fertilizer Dodge City, LLC.	172.203(a), 172.302(b), 172.302(c), 173.315(l)(5).	To authorize the manufacture and use of a testing device to determine the presence of the minimum water content in anhydrous ammonia.
22065-N	Alpine Aviation, Inc	172.203(a), 175.700(b)(2)(ii), 175.701(a), 175.702(a)(2)(ii).	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds the authorized limit of 200 TI per aircraft, or the separation distance cannot be met.
22077-N	Space Exploration Technologies Corp.	172.101(k)(8), 172.300, 172.400, 176.63(b), 176.116(a)(1), 176.116(e)(1), 176.138(b).	To authorize the transportation in commerce of SpaceX Starship spacecraft and associated support equipment containing non-DOT specification packagings of hazardous materials.
22094-N	BAE Systems Controls Inc ..	172.101(j), 173.185(a)	To authorize the transportation in commerce of low production lithium ion batteries that have not completed all UN testing and exceed 35 kg net weight aboard cargo-only aircraft.
22114-N	Busek Co., Inc	173.301(f)(1)	To authorize the transportation in commerce of UN/ISO 11119-2 specification aluminum lined composite cylinders without being equipped with a pressure relief device, which are incorporated into a propulsion system within spacecraft or components of spacecraft.
22123-N	Lucid USA, Inc	172.101(l)(3), 173.185(a)(1), 173.220(d).	To authorize the transportation in commerce of prototype and low production lithium cells and batteries that exceed 35 kg net weight aboard cargo-only aircraft.
22124-N	Sig Sauer Inc	172.101(i)(3), 172.300, 173.62(c)	To authorize the transportation in commerce of certain cartridges, small arms and cartridges, small arms, blank in non-DOT specification open-head steel drums with secured lids and specially designed non-DOT specification rigid plastic tote bins with secured lids.
22131-N	Composite Technical Systems C.T.S. S.p.A.	178.71(l)(1)	To authorize the manufacture, mark, sale, and use of UN composites cylinders conforming to all regulations applicable to ISO 11119-3:2013(E) for the transportation in commerce of the hazardous materials authorized by this special permit.
22133-N	General Motors Company ...	171.2(k), 172.301(c)	To authorize the transportation of empty large reusable packagings used in automated loading and unloading of production lithium ion cells as regulated hazardous materials.
22139-N	Rocket Lab USA, Inc	173.301(f), 49 CFR Part 178	To authorize transportation in commerce of non-DOT specification cylinders installed in a satellite.
22176-N	Fogmaker International AB ..	171.23(a)(3)	To authorize the transportation in commerce of non-DOT specification π -marked pressure receptacles containing nitrogen, compressed for permanent installation in vehicle fire suppression systems.
22215-N	Blue Origin, LLC	173.301(g), 173.302(a), 173.61(a), 177.848(d).	To authorize the one-time, one-way transportation in commerce of certain Division 1.1D detonating cord, Division 1.4C power device cartridges, and Division 1.4S detonating fuzes with Division 2.2 compressed gases, together in the same motor vehicle, subject to the packaging and special provisions prescribed in the special permit.

SPECIAL PERMITS DATA—DENIED

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22058-N	United Industries Corporation.	173.156(b)(2)(iii)	To authorize the transportation in commerce of limited quantities in excess of the 30 kg (66 pounds) gross weight limitation in accordance with 49 CFR § 173.156(b)(2) when transported by highway or rail between a manufacturer, a distribution center, and a retail outlet, except § 173.156(b)(2)(iii) in that a fiber-board box is not required.

SPECIAL PERMITS DATA—WITHDRAWN

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22140–N	NOVONIX Battery Technology Solutions.	173.185	To authorize the transportation in commerce of prototype lithium-ion and sodium-ion cells by cargo-only aircraft.
22185–N	EOS Energy Storage LLC ...	171.1(b), 172.101(a), 173.159, 173.185(b)(3), 173.185(b)(4), 173.185(b)(4)(i), 173.1(b), 173.22(a), 173.24(a), 173.24(a)(1), 173.24(a)(3), 173.24(b), 173.24.	To authorize the transportation in commerce of the Z3 Integrated Layer Controller (ILC), which is a fully integrated, self-contained DC energy storage system.
22200–N	Interstate Carrier Xpress, Inc.	173.301	To authorize the transportation in commerce of certain DOT specification or UN certified packagings containing Division 2.1, 2.2, 2.3, 5.1, 4.3 and Class 3 and 8 materials on the same motor vehicle.

[FR Doc. 2026–05279 Filed 3–17–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety

has received the application described herein.

DATES: Comments must be received on or before April 17, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the “Nature of Application” portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 4, 2026.

Donald P. Burger,
Director, Special Permits Program.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22196–N	3rd Light, LLC	172.200(a), 172.320(a), 172.400(a), 172.500(a), 173.60(a), 173.63(b).	To authorize the transportation in commerce of Division 1.4S articles as limited quantities. (modes 1, 2).
22197–N	Veolia ES Technical Solutions, LLC.	173.21(b), 173.51(a), 173.54(a), 173.56(b).	To authorize the one-time, one-way transportation of wastewater containing explosive materials generated from the reclamation of submerged waste munitions. (mode 1).
22198–N	Magg Management & Consultancy Ltd.	173.185(e)	To authorize the transportation in commerce of prototype batteries in excess of 35kg from by cargo-only aircraft. (mode 4).
22199–N	Li-S Energy Limited	173.185(a)(1)	To authorize the transportation in commerce of low production lithium metal cells. (mode 4).
22203–N	Toyota Motor Engineering & Manufacturing North America, Inc.	173.301(a)(1), 173.302(a)(1), 178.35	To authorize the transportation in commerce of hydrogen in non-DOT specification cylinders that are secured in a modular frame for transportation. (modes 1, 2).
22206–N	Versum Materials US, LLC ..	171.23(a)(3), 171.23(b)(10)(ii)	To authorize the transportation in commerce of non-DOT specification pressure drums containing anhydrous hydrogen chloride. (modes 1, 3).
22212–N	CSX Transportation, Inc	174.26	To authorize the use of electronic means to maintain and communicate on-board train consist and shipping paper information in lieu of paper documentation when hazardous materials are transported by rail. (mode 2).
22213–N	Atlantic Energy Partners ND LLC.	172.203(a), 172.302(c), 177.834(h) ..	To authorize the transportation in commerce of Class 3, 8 and 9 hazardous materials. (mode 1).

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22218–N	Lucid USA, Inc	173.185(a)(1), 173.220(d)	To authorize the transportation in commerce of low production and prototype lithium-ion battery modules, battery packs, and battery-powered vehicles containing low production and prototype lithium-ion batteries by cargo-only aircraft. (mode 4).
22220–N	Zhejiang Weihua Can Making Co., Ltd.	173.304(a)(1), 173.304(d)	To authorize the manufacture, mark, sale and use of non-DOT specification packagings for the transportation of the materials authorized by the special permit. (modes 1, 2, 3).
22222–N	Harvest Medical Systems LLC.	172.101(a)	To authorize the transportation in commerce of UN3538, articles containing non-flammable, non-toxic gas, n.o.s., containing refrigerated liquid helium (UN1963) aboard cargo-only aircraft. (mode 4).

[FR Doc. 2026–05277 Filed 3–17–26; 8:45 am]

BILLING CODE 4910–60–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 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 August 14, 2025. See **SUPPLEMENTARY INFORMATION** section 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 August 14, 2025, OFAC determined that one or more persons identified below meet one or more of the criteria for the imposition of

sanctions set forth in section 1(a)–(c) of Executive Order 14059 of December 15, 2021, “Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,” 86 FR 71549 (E.O. 14059). OFAC has selected to impose blocking sanctions pursuant to section 2(a)(i) of E.O. 14059 on the persons identified below.

OFAC further determined that one or more persons identified below meet one or more of the criteria for designation pursuant to Executive Order 13224 of September 23, 2001, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,” 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, “Modernizing Sanctions To Combat Terrorism,” 84 FR 48041 (E.O. 13224, as amended).

As a result, 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. BARRAGAN CHAVEZ, Luis Enrique (a.k.a. “El R5”; a.k.a. “Guicho”; a.k.a. “Guicho de Los Reyes”; a.k.a. “Wicho”; a.k.a. “Wicho de Los Reyes”), Mexico; DOB 10 Nov 1986; POB Jalisco, Mexico; nationality Mexico; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; C.U.R.P. BACL861110HJCRHS06 (Mexico) (individual) [SDGT] [ILLCIT–DRUGS–EO14059] (Linked To: CARTELES UNIDOS).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 14059.

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 13224, as amended.

2. FARIAS ALVAREZ, Juan Jose (a.k.a. “El Abuelo”), Mexico; DOB 10 Aug 1970; POB Tepalcatepec, Michoacan, Mexico; nationality Mexico; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; C.U.R.P. FAAJ700810HMNRLN16 (Mexico) (individual) [SDGT] [ILLCIT–DRUGS–EO14059] (Linked To: CARTELES UNIDOS).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 14059.

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 13224, as amended.

3. FERNANDEZ MAGALLON, Alfonso (a.k.a. “Poncho”; a.k.a. “Poncho La Quiringua”), Los Reyes, Michoacan, Mexico; DOB 09 Apr 1970; POB Jalisco, Mexico; nationality Mexico; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] [ILLCIT–DRUGS–EO14059] (Linked To: CARTELES UNIDOS).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 14059.

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 13224, as amended.

4. OROZCO CABADAS, Edgar Valeriano (a.k.a. CABADAS TORRES, Edgar; a.k.a. “El 50”; a.k.a. “El Kamoni”), Mexico; DOB 21 Oct 1985; POB Michoacan, Mexico; nationality Mexico; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; C.U.R.P. OOC851021HMNRBD04 (Mexico) (individual) [SDGT] [ILLCIT-DRUGS-EO14059] (Linked To: CARTELES UNIDOS).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 14059.

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Carteles Unidos, a person sanctioned pursuant to E.O. 13224, as amended.

5. CISNEROS FLORES, Heladio (a.k.a. “La Sirena”), Mexico; DOB 21 Feb 1986; POB Michoacan, Mexico; nationality Mexico; Gender Male; C.U.R.P. CIFH860221HMNSLL02 (Mexico) (individual) [ILLCIT-DRUGS-EO14059] (Linked To: LOS VIAGRAS).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Los Viagras, a person sanctioned pursuant to E.O. 14059.

6. SEPULVEDA ARELLANO, Cesar Alejandro (a.k.a. “El Boto”; a.k.a. “El Botox”), Mexico; DOB 26 Nov 1982; POB Michoacan, Mexico; nationality Mexico; Gender Male; C.U.R.P. SEAC821126HMNPRS08 (Mexico) (individual) [ILLCIT-DRUGS-EO14059] (Linked To: LOS VIAGRAS).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Los Viagras, a person sanctioned pursuant to E.O. 14059.

7. SIERRA SANTANA, Nicolas (a.k.a. “El Coruco”; a.k.a. “El Gordo”), Mexico; DOB 10 Sep 1977; POB Michoacan, Mexico; nationality Mexico; Gender Male; C.U.R.P. SISN770910HMNRNC09 (Mexico) (individual) [ILLCIT-DRUGS-EO14059] (Linked To: LOS VIAGRAS).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Los Viagras, a

person sanctioned pursuant to E.O. 14059.

Entities

1. CARTELES UNIDOS (a.k.a. CARTEL DE TEPALCATEPEC; a.k.a. TEPALCATEPEC CARTEL; a.k.a. “CARTEL DE LOS REYES”; a.k.a. “CARTEL DEL ABUELO”; a.k.a. “THE GRANDFATHER CARTEL”; a.k.a. “UNITED CARTELS”), Mexico; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Type: Transnational Terrorist Group; Target Type Criminal Organization [FTO] [SDGT] [ILLCIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. LOS VIAGRAS (a.k.a. CARTEL DE LOS VIAGRAS; a.k.a. LOS VIAGRAS CARTEL), Mexico; Target Type Criminal Organization [ILLCIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-05225 Filed 3-17-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Requesting Comment on Application for Central Withholding Agreement; Directed Withholding and Deposit Verification; IRS Secure Messaging Taxpayer Agreement and Disclosure Authorization to Designated Users

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before May 18, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include “OMB Control No. 1545-2102” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620-6008.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Application for Central Withholding Agreement; Directed Withholding and Deposit Verification; IRS Secure Messaging Taxpayer Agreement and Disclosure Authorization to Designated Users.

OMB Control Number: 1545-2102.

Form Number: 13920, 13930, 13930-A, and 15410.

Abstract: Form 13930 will be used by an individual who wishes to have a Central Withholding Agreement (CWA). This form instructs the individual on how to make their application for consideration. Internal Revenue Code

(IRC) section 1441(a) requires withholding on certain payments of Non-Resident Aliens (NRAs). Section 1.1441-4(b)(3) of the Income Tax Code of Federal Regulations (CFR) provides that the withholding can be considered for adjustment if a CWA is applied for and granted. Form 13930-A is filed by nonresident alien artists and athletes to apply for a CWA if the group's tour income is less than or equal to \$200,000. Form 13920 is filed by withholding agents to verify to IRS that required deposits were made and give the amount of such deposits. Form 15410 is filed by taxpayers or authorized

representative to initiate or update enrollment in secure messaging.

Current Actions: Revisions to the form were made to comply with Executive Order 14247, that requires every payment from the IRS to be eligible for direct deposit. The revision to the form is not substantively changing the use of the form or the data being collected. The agency has updated the estimated number of filers based on more recent filing data. Form 13930-A and Form 15410 are being added to the above OMB approval number.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms and non-profit institutions.

Estimated Number of Responses: 3,700.

Estimated Time per Response: 3 hours 31 minutes.

Estimated Total Annual Burden Hours: 13,056.

Dated: March 13, 2026.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2026-05215 Filed 3-17-26; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Polyether
Polyols Production Industry Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2023-0282; FRL-10854-02-OAR]

RIN 2060-AW01

National Emission Standards for Hazardous Air Pollutants: Polyether Polyols Production Industry Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Polyether Polyols (PEPO) Production source category (“PEPO NESHAP”) under Clean Air Act (CAA) section 112. Specifically, the EPA is finalizing certain ethylene oxide (EtO)-specific standards pursuant to CAA section 112(d)(6) rather than finalizing the proposed second residual risk review and corresponding amendments pursuant to CAA section 112(f)(2). In addition, the EPA is taking final action addressing certain issues raised in an administrative petition for reconsideration. Lastly, the EPA is finalizing maximum achievable control technology (MACT) standards for certain emission points, work practice standards for certain activities where alternatives are appropriate, performance testing requirements once every five years for certain process vents, and electronic reporting requirements for performance test reports, flare management plans, and periodic reports.

DATES: This final rule is effective on March 18, 2026. The Director of the Federal Register (FR) has approved incorporation by reference (IBR) of certain publications listed in the rule as of March 18, 2026.

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA-HQ-OAR-2023-0282. All documents in the docket are listed in <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 on 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 these requests. With the exception of such material, publicly available docket materials are available electronically at <https://www.regulations.gov> or on EPA computers in the docket office reading room at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time (ET), Monday through Friday. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For information about this final rule, contact U.S. EPA, Attn: Johanna Klein, Mail Drop: Industrial Processing and Power Division (E143-01), 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2283; and email address: Klein.Johanna@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this notice the use of “we,” “us,” or “our” refers to the EPA. The Agency uses 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
1-BP 1-bromopropane
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
CMPU chemical manufacturing process unit
CO carbon monoxide
CO₂ carbon dioxide
EAV equivalent annualized value
ECO extended cookout
EIA Economic Impacts Analysis
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
EtO Ethylene Oxide
Fe Fraction emitted
kg/yr kilograms per year
HAP hazardous air pollutant(s)
HON Hazardous Organic NESHAP
ICR information collection request
IFR internal floating roof
kPa kilopascals
lb/hr pounds per hour
lb/yr pounds per year

LDAR leak detection and repair
LEAN Louisiana Environmental Action Network
LEL lower explosive limit
m³ cubic meters
MACT maximum achievable control technology
MON Miscellaneous Organic Chemical Manufacturing NESHAP
MTVP maximum true vapor pressure
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP national emission standards for hazardous air pollutants
NO_x nitrogen oxides
NRDC Natural Resources Defense Council
NTAA National Technology Transfer and Advancement Act
OAR Office of Air and Radiation
OMB Office of Management and Budget
PDF portable document format
PEPO polyether polyol(s)
PMPU polyether polyol manufacturing process unit
ppmv parts per million by volume
ppmw parts per million by weight
PRA Paperwork Reduction Act
psia pounds per square inch absolute
psig pounds per square inch gauge
PRD pressure relief devices
PV present value
RFA Regulatory Flexibility Act
RTR Risk and Technology Review
scmm standard cubic meters per minute
SO₂ sulfur dioxide
THF tetrahydrofuran
TOC total organic compound
tpy tons per year
TRE total resource effectiveness
µg/m³ micrograms per cubic meter
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code
VCS voluntary consensus standards
VOC volatile organic compound(s)

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I. General Information

A. Executive Summary

The EPA promulgated the PEPO NESHAP on June 1, 1999, and codified the NESHAP at 40 CFR part 63, subpart PPP.¹ In 2014, the EPA finalized a technology review and residual risk review (“RTR”) for the PEPO NESHAP under the provisions of CAA sections 112(d)(6) and (f)(2);² subsequently, the EPA agreed to reconsider two aspects of the 2014 rulemaking in response to a petition for reconsideration. Through these actions, the Agency addressed its statutory obligations to promulgate MACT standards under CAA section 112(d)(2)–(3), conduct a residual risk review within eight years of promulgating the MACT standards

under CAA section 112(f)(2), and conduct the first technology review (which must occur going forward every eight years) under CAA section 112(d)(6). The Agency concluded in 2014 that further amendments were not required under the RTR but took the opportunity in the 2014 rulemaking to make certain other amendments to the NESHAP.

On December 27, 2024, in connection with a consent decree obligation related to the ongoing technology review requirement in CAA section 112(d)(6), the EPA proposed revisions to the PEPO NESHAP based on the second technology review and reconsideration issues stemming from the 2014 rule. Although the Agency had already completed the residual risk review for this source category in the 2014 RTR, the EPA also proposed a second, “discretionary” residual risk review and certain amendments based on the results of the proposed review.³ Sections II.B.3 and 4 of this preamble describe other revisions that the EPA proposed for the PEPO NESHAP.

In this action, the EPA is finalizing decisions and revisions for the PEPO NESHAP. The EPA summarizes and responds to the more significant public comments on the proposed rule within this preamble.⁴ Following the 81-day comment period, the EPA conducted listening sessions with representatives of PEPO production facilities’ owners and operators through meetings with the American Chemistry Council, American Fuel and Petrochemical Manufacturers, and Huntsman Corporation.⁵ Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA offered government-to-government consultation with Tribes in December 2024.

Specifically, after reviewing public input and considering the issues further, the EPA agrees with public comments that, instead of finalizing a second, “discretionary” residual risk review and EtO-specific standards based on that review, it is more appropriate to evaluate EtO-specific standards under the CAA section 112(d)(6) requirement

to conduct periodic technology reviews and revise standards “as necessary.” The EPA is finalizing the proposed EtO-specific standards (with revisions) for process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater under CAA section 112(d)(6) rather than CAA section 112(f)(2). This pathway satisfies the EPA’s obligations under the statute and the applicable consent decree, provides additional protections for public health, and reflects the typical approach the Agency has taken to revising standards after completion of the RTR. To note, the EPA is not finalizing the proposed fenceline monitoring work practice standard and the proposed revision to the continuous process vent standard. Otherwise, the EPA is finalizing provisions as proposed, with some clarifying changes and technical corrections. A “track changes” version of the regulatory language that incorporates the changes in this action is available in the docket.

B. Does this action apply to me?

Regulated entities. Table 1 of this preamble lists categories and entities potentially regulated by this action.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS ¹ code
40 CFR part 63, subpart PPP, PEPO Production	325199

¹ North American Industry Classification System (NAICS).

Table 1 of this preamble, although not exhaustive, provides a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What is the statutory authority for this final action?

1. NESHAP

The statutory authority for this final action is provided by CAA section 112, as amended (42 U.S.C. 7412). CAA section 112 establishes a two-stage regulatory process to develop standards for emissions of hazardous air pollutant(s) (HAPs) from stationary sources. In the first stage, the EPA

¹ 64 FR 29420 (June 1, 1999).

² 79 FR 17340 (Mar. 27, 2014).

³ 89 FR 105986 (Dec. 27, 2024).

⁴ A summary of all other public comments on the proposal and the EPA’s responses to those comments is available in the document *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, Docket ID No. EPA–HQ–OAR–2023–0282.

⁵ Additional details about these meetings are in the documents titled *Documentation of May 2025 Meetings With Industry Stakeholders*, *Documentation of Meetings With Industry Stakeholders—June through September*, and *Documentation of Meetings With Industry Stakeholders—December 2025 through February 2026*, Docket ID EPA–HQ–OAR–2023–0282.

promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). “Major sources” are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP.⁶ For major sources, these standards are commonly referred to as MACT standards; CAA section 112(d)(2) provides that these must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

CAA section 112(d)(3) establishes a minimum control level for MACT standards, known as the MACT “floor,” based on emission controls achieved in practice by the best performing sources. For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). The EPA also considers control options that are more stringent than the floor and may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.⁷ Standards more stringent than the floor are commonly referred to as “beyond-the-floor” standards.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which the Agency refers to as the technology

review and the residual risk review. Under the technology review, the EPA must review the technology-based standards and revise them “as necessary (taking into account developments in practices, processes, and control technologies)” no less frequently than every eight years, pursuant to CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floors that were established in earlier rulemakings.⁸ The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).⁹ Pursuant to the D.C. Circuit’s decision in *Louisiana Environmental Action Network (LEAN) v. EPA*,¹⁰ the EPA also reviews available data to determine if there are unregulated emissions of HAP within the source category and evaluate these data for use in developing new emission standards. Under the residual risk review, pursuant to CAA section 112(f), the EPA must within eight years of promulgating the technology-based standards for a source category evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

In the proposal published on December 27, 2024, the EPA conducted a review that included both a technology review, required by CAA section 112(d)(6), and a second residual risk review, which the Agency claimed was allowed but not required under CAA section 112(f)(2).¹¹ Notably, the EPA’s practice prior to 2024 had not involved conducting second, “discretionary” risk reviews or promulgating additional standards based on such a second review when the RTR had already been completed. As discussed below, the EPA is not finalizing the proposed residual risk review in this action and is instead finalizing EtO-specific standards under CAA section 112(d)(6), which authorizes the Agency to revise standards “as necessary.”¹²

⁸ *Ass’n of Battery Recyclers, Inc. v. EPA*, 716 F.3d 667 (D.C. Cir. 2013); *Natural Resources Defense Council (NRDC) v. EPA*, 529 F.3d 1077, 1084 (D.C. Cir. 2008).

⁹ 42 U.S.C. 7412(d)(2), (6); *Ass’n of Battery Recyclers*, 716 F.3d at 673–74.

¹⁰ 955 F.3d 1088 (D.C. Cir. 2020).

¹¹ 89 FR 105986 (Dec. 27, 2024).

¹² See section IV.A.4 of this preamble for more information.

2. Petition for Reconsideration

In addition to amendments promulgated under CAA section 112(d)(6), this final action includes the EPA’s response to issues raised in an administrative petition submitted pursuant to CAA section 307(d)(7)(B) on certain aspects of the 2014 review of the PEPO NESHAP. In May 2014, the EPA received a petition for reconsideration of the PEPO NESHAP (40 CFR part 63, subpart PPP), Pesticide Active Ingredient Production NESHAP (40 CFR part 63, subpart MMM), and Group IV Polymers and Resins NESHAP (40 CFR part 63, subpart JJJ) pursuant to CAA section 307(d)(7)(B) from the Louisiana Environmental Action Network, Ohio Valley Environmental Coalition, and Sierra Club, collectively.¹³ For the PEPO NESHAP, the petitioners requested that the EPA: (1) remove the affirmative defense provisions from the rules in light of the judicial opinion in *NRDC v. EPA*;¹⁴ (2) provide adequate opportunity to comment on the requirements associated with emissions from pressure relief devices (PRDs) (including associated compliance dates, the EPA’s decision to not specifically require electronic indicators and alarms to monitor PRD releases to the atmosphere, and the standard’s applicability to PRDs in organic HAP service versus PRDs in total HAP service); (3) redo the risk assessment using updated emission factors; (4) set additional monitoring requirements for flares to reduce flaring emissions; (5) set fenceline monitoring requirements; (6) reconsider its decision not to set standards that account for developments in leak detection and repair (LDAR); and (7) use existing regulatory authority to strengthen chemical facility safety and prevent accidents in accordance with the U.S. Chemical Safety and Hazard Investigation Board and Executive Order 13650. On August 26, 2014, the EPA sent a letter to the petitioners informing them that the EPA was granting their request for reconsideration on issues (1) and (2).¹⁵ In the letter, the EPA also stated that it would initiate a notice-and-comment rulemaking on the issues for which the Agency granted reconsideration. The EPA addressed issue (1), the removal of affirmative defense provisions associated with the violation of air emission standards due

¹³ A copy of the petition and subsequent EPA correspondence granting reconsideration are in the docket for this rulemaking; see Document ID No. EPA-HQ-OAR-2023-0282-0044.

¹⁴ 749 F.3d 1055 (D.C. Cir. 2014).

¹⁵ A copy of the August 26, 2014, letter is in the docket for this rulemaking; see Document ID No. EPA-HQ-OAR-2023-0282-0045.

⁶ 42 U.S.C. 7412(a)(1).

⁷ *Id.* 7412(d)(2).

to malfunctions, in a separate rulemaking; therefore, this final rule does not address that issue.¹⁶ This action formally responds to the remaining issues concerning the PEPO NESHAP raised in the petition.¹⁷

D. 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. Following signature by the EPA Administrator, the EPA will post a copy of this final action at <https://www.epa.gov/stationary-sources-air-pollution/polyether-polyols-production-national-emission-standards-hazardous>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the Risk and Technology Review (RTR) website at <https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous>. This information includes an overview of the RTR program and links to project websites for the RTR source categories.

E. 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 United States Court of Appeals for the District of Columbia Circuit by May 18, 2026. CAA section 307(b)(2) prohibits a party from challenging this final rule separately in any civil or criminal proceedings brought by the EPA 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 provides a mechanism for 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 **FOR FURTHER INFORMATION CONTACT** section of this preamble 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.

F. Severability

This final rule contains several discrete components, which the EPA views as severable as a practical matter—*i.e.*, they are functionally independent and will operate in practice independently of the other components. These discrete components are detailed in sections III.A through III.D of this preamble and the technical memoranda available in the docket. For example, the final requirements for equipment in organic HAP service, equipment in EtO service, flare operation and monitoring, transfer operations, and performance testing generally function independently of one another and would not be impacted if a reviewing court were to vacate one or more of the other final provisions. In addition, as this final rule revises an existing NESHAP, the EPA notes that if a reviewing court were to vacate one or more of the standards finalized here, the affected standards will revert to those present in the 2014 RTR final rule.

II. Background

A. What is the PEPO Production source category, and how does the NESHAP regulate HAP emissions from the source category?

The PEPO Production source category is the subject of this final action. The EPA promulgated the PEPO NESHAP on June 1, 1999, and codified the NESHAP at 40 CFR part 63, subpart PPP.¹⁸ As promulgated in 1999 and further amended on July 1, 2004,¹⁹ and March 27, 2014,²⁰ the PEPO NESHAP regulates HAP emissions from polyether polyol manufacturing process units (PMPUs)²¹

that produce PEPO²² as their primary product. A PMPU consists of purification systems, reactors and their associated product separators and recovery devices, distillation units and their associated distillate receivers and recovery devices, other associated unit operations, storage vessels, surge control vessels, bottoms receivers, product transfer racks, connected ducts and piping, and combustion, recovery, or recapture devices or systems. A PMPU also includes pumps, compressors, agitators, PRDs, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems.

Manufacturers use PEPO to make a variety of other products including lubricants, adhesives, sealants, cosmetics, pharmaceuticals, soaps, and feedstock for polyurethanes production. Urethane grade PEPO (*i.e.*, those that are free of water) serve as raw material in the production of polyurethanes, including slabstock and molded flexible foams, rigid foams, and other polyurethanes, including microcellular products, surface coatings, elastomers, fibers, adhesives, and sealants.

Facilities produce PEPO by polymerizing either epoxides (*i.e.*, a three-membered cyclic ether, such as EtO or propylene oxide) or tetrahydrofuran (THF). Facilities usually conduct the former process as a batch process and the latter as a continuous process. EtO and propylene oxide are both HAPs, but THF is not. In the original NESHAP, the EPA created two subcategories of PEPO based on the use of either epoxides or THF in polymerization.

The HAP emission sources at PEPO facilities include process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater. In the production of PEPO, facilities use HAP primarily as reactants or extraction solvents. HAP emitted from PEPO facilities include EtO, propylene oxide, toluene, methanol, and glycol ethers. The MACT standards for PEPO production include emission limits for process vents; a combination of equipment standards and work practices for storage vessels, wastewater, and

¹⁶ 90 FR 42323 (Sept. 2, 2025).

¹⁷ Although the issues identified in this paragraph (in addition to one other issue related to alternative compliance demonstration methods for periods of startup and shutdown) were also raised for 40 CFR part 63, subparts JJJ and MMM; this action does not respond to the reconsideration of these NESHAP, as the EPA is not reviewing those subparts in this action.

¹⁸ 64 FR 29420 (June 1, 1999).

¹⁹ 69 FR 39862 (July 1, 2004).

²⁰ 59 FR 17340 (Mar. 27, 2014).

²¹ A PMPU also includes flexible operation process units when an owner or operator cannot determine that a PEPO is not the primary product and a PEPO is produced or anticipated to be produced during time spans described in 40 CFR 63.1420(e)(2).

²² PEPO are compounds formed through the polymerization of EtO or propylene oxide or other cyclic ethers with compounds having one or more reactive hydrogens (*i.e.*, a hydrogen atom bonded to nitrogen, oxygen, phosphorus, sulfur, etc.) to form polyethers (*i.e.*, compounds with two or more ether bonds). This definition of PEPO excludes cellulose ethers (such as methyl cellulose, carboxymethyl cellulose, hydroxyethyl cellulose, hydroxyethyl cellulose, and hydroxypropyl methyl cellulose) and materials regulated under the HON, such as glycols and glycol ethers.

equipment leaks; and work practice standards for heat exchange systems.

As of December 1, 2025, the EPA identified 23 PEPO facilities in operation that are subject to the PEPO NESHAP. The list of facilities in the United States that are part of the PEPO Production source category with processes subject to the PEPO NESHAP is in the document titled *List of Facilities Subject to the PEPO NESHAP, for Final Rule*, which is in the docket for this action.²³

B. What changes did we propose for the PEPO Production source category in our December 27, 2024, proposal?

On September 18, 2023, the EPA received a complaint alleging that the Agency failed to undertake non-discretionary duties to conduct a technology review of the PEPO NESHAP at least every eight years, and on December 7, 2023, the plaintiffs amended the complaint to additionally allege that the Agency unreasonably delayed taking final agency action on reconsideration of the 2014 rule. As a result, on November 22, 2024, the EPA entered into a consent decree to take action on the reconsideration petition and the technology review of the PEPO NESHAP by December 10, 2025, later amended to March 13, 2026. The EPA's December 27, 2024, proposal addressed the Agency's statutory and consent decree obligation to conduct another technology review pursuant to CAA section 112(d)(6). However, the EPA also took the opportunity to conduct a second, "discretionary" residual risk review and proposed several standards based on the proposed results of that second review. This section explains what the EPA proposed with respect to the second, "discretionary" residual risk review, the mandatory eight-year technology review, and additional issues covered in the proposed rule.

1. Proposed Actions Related to CAA Section 112(f) Risk Assessment

The EPA proposed a second, "discretionary" residual risk review for the PEPO Production source category focused on emissions of EtO from PEPO sources. The EPA proposed control options for EtO under CAA section 112(f) to reduce risk from the PEPO Production source category as construed in the Agency's proposed findings. The EPA proposed under CAA section 112(f) to require additional control of EtO emissions from: (1) process vents, (2) storage vessels, (3) equipment leaks, (4) heat exchange systems, and (5)

wastewater "in ethylene oxide service."²⁴

- For process vents and storage vessels in EtO service, the EPA proposed that owners and operators reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by greater than or equal to 99.9 percent by weight or to a concentration less than 1 parts per million by volume (ppmv) for each process vent and storage vessel, or (2) venting emissions through a closed vent system to a flare meeting new proposed operating and monitoring requirements for flares. For process vents, the EPA also proposed an annual limit of 5 pounds per year (lb/yr) or less for all combined process vents as an alternative to the percent control and concentration options.

- For equipment leaks in EtO service, the EPA proposed the following combined requirements: monitoring of connectors in gas/vapor and light liquid service at a leak definition of 100 ppmv on a monthly basis with no reduction in monitoring frequency and no delay of repair; monthly monitoring of light liquid pumps at a leak definition of 500 ppmv; and monthly monitoring of gas/vapor and light liquid valves at a leak definition of 100 ppmv with no reduction in monitoring frequency and no delay of repair.²⁵

- For heat exchange systems in EtO service, the EPA proposed to require owners or operators to conduct more frequent leak monitoring (weekly instead of quarterly) and to repair leaks within 15 days from the sampling date (in lieu of the current 45-day repair requirement after receiving results of monitoring indicating a leak), and to not allow owners or operators to delay repairs.

- For wastewater in EtO service, the EPA proposed to revise the Group 1 wastewater stream threshold for sources to include wastewater streams in EtO service, and to prohibit owners and operators from injecting wastewater in EtO service into or disposing of water through any heat exchange system in a PMPU.

The EPA proposed that these requirements would reduce risk to an acceptable level for the PEPO Production source category and provide an ample margin of safety under the proposed approach to utilize CAA section 112(f)(2). We also proposed that

no additional requirements were needed to prevent an adverse environmental effect.

2. Proposed Actions Related to CAA Section 112(d)(6) Technology Review

Pursuant to the CAA section 112(d)(6) technology review for the PEPO NESHAP, the EPA proposed that no revisions to the current standards beyond the fenceline monitoring work practice standard discussed later in this preamble are necessary for wastewater streams. However, the Agency proposed additional changes under CAA section 112(d)(6) for heat exchange systems, storage vessels, process vents, and equipment leaks. The EPA also proposed a fenceline monitoring work practice standard under CAA section 112(d)(6).

- For heat exchange systems at existing and new affected sources, the EPA proposed requirements that owners or operators conduct quarterly monitoring (after an initial six months of monthly monitoring if not already completed) using the Modified El Paso Method and a leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas.²⁶

- For storage vessels at existing and new affected sources, the EPA proposed to revise applicability thresholds to require existing storage vessels between 38 cubic meters (m³) (10,000 gal) and 151 m³ (40,000 gal) with a vapor pressure ≥ 6.9 kilopascals (kPa) to add controls, and to require upgraded deck fittings and controls for guidepoles for all storage vessels equipped with an internal floating roof (IFR).

- For continuous process vents at existing and new affected sources associated with nonepoxide organic HAP (from making or modifying product) and process vents associated with existing and new affected sources that produce PEPO using THF, the EPA proposed to: (1) remove the total resource effectiveness (TRE) concept in its entirety; (2) remove 50 ppmv and 0.005 standard cubic meters per minute (scmm) Group 1 process vent thresholds associated with a PMPU using THF; and (3) redefine a Group 1 process vent (require control) as any process vent that emits ≥ 1.0 pounds per hour (lb/hr) of total organic HAP.

- For batch process vents at existing and new affected sources that are associated with the use of a nonepoxide organic HAP to make or modify the

²⁴ See 88 FR 25080 (Apr. 25, 2023) for the EPA's proposed definition of "in ethylene oxide service."

²⁵ Leak definition refers to the concentration at or above which the equipment is considered leaking, and the owner or operator must repair the leaking equipment.

²⁶ The Modified El Paso Method uses a dynamic or flow-through system for air stripping a sample of the water and analyzing the resultant off-gases for volatile organic compounds (VOC) using a common flame ionization detector analyzer.

product, the EPA proposed to change the PEPO NESHAP control threshold from 26,014 lb/yr to 10,000 lb/yr and remove the associated flow rate applicability thresholds.

- For equipment leaks at existing and new affected sources, the EPA proposed to revise the leak definition from 500 ppmv to 100 ppmv for valves that are in either gas/vapor service or light liquid service.

- For managing fugitive emissions, the EPA proposed a fenceline monitoring work practice standard requiring owners and operators to monitor EtO if their site uses, produces, stores, or emits EtO, and conduct a root cause analysis and corrective action upon exceeding an annual average EtO concentration action level of 0.2 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$).

3. Proposed Actions Related to CAA Section 112(d)(2) and (3) and 112(h)

The EPA proposed other requirements for the PEPO NESHAP based on analyses performed pursuant to CAA section 112(d)(2) and (3) and 112(h) and to ensure that CAA section 112 standards apply continuously, as required by *Sierra Club v. EPA*.²⁷ These proposed requirements included:

- new monitoring and operational requirements for flares;
- regulatory provisions for vent control bypasses for closed vent systems containing bypass lines;
- work practice standards for startup and shutdown periods for maintenance vents and planned routine maintenance of storage vessels;
- new monitoring requirements for pressure vessels;
- new emission standards for surge control vessels and bottoms receivers;
- new emission standards for transfer operations;
- the addition of butylene oxide to the list of HAP presented in table 4 to 40 CFR 63, subpart PPP; and
- removal of exemption at 40 CFR 63.1420(d)(3) for certain processes currently excluded from the affected source as defined in 40 CFR 63.1420(a).

4. Other Proposed Actions

In addition to the actions described in sections II.B.1 through II.B.3 of this preamble, the EPA also proposed:

- to retain the existing PRD requirements in the PEPO NESHAP (in response to the Agency's reconsideration of issue (2) in the petition for reconsideration described in section I.C.2 of this preamble);
- to change the recordkeeping and reporting requirements to require the

use of the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI) for performance test reports, flare management plans, and periodic reports;

- to require subsequent performance testing once every five years to demonstrate compliance with emission limits for certain process vents (if you route emissions to a control device other than a flare);

- to eliminate the option in 40 CFR 63.1427(a)(2)(ii) that exempts owners or operators using extended cookout (ECO) as a control technique from the requirement to directly measure the concentration of unreacted epoxide of some products when determining the batch cycle percent epoxide emission reduction;²⁸

- to revise the phrasing in 40 CFR 63.1423(a) to refer to 40 CFR part 63, subpart F, where a definition in the PEPO NESHAP currently points to either 40 CFR part 63, subpart G or H;

- to add monitoring requirements for adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite;

- to find that the inclusion of 1-bromopropane (1-BP) as an organic HAP will not have any effect on the MACT standards; and

- to make additional changes that address technical and editorial corrections for the PEPO NESHAP.

III. What is included in this final rule?

Upon further consideration of the issues and public comments received, the EPA is finalizing EtO-specific standards (similar to those proposed under CAA section 112(f)(2)) under CAA section 112(d)(6) and is not finalizing the proposed second residual risk review for the PEPO Production source category (see section III.A of this preamble). The EPA is also finalizing the Agency's determinations pursuant to the technology review provisions of CAA section 112(d) for the PEPO Production source category and amending the PEPO NESHAP in several respects based on those determinations.²⁹ In this action, the EPA is also finalizing other changes to the PEPO NESHAP, including amendments pursuant to CAA section 112(d)(2) and

²⁸ ECO refers to extending the duration of the PEPO polymerization reaction to reduce the quantity of unreacted epoxides at the end of the reaction, thereby reducing epoxide emissions that would occur after opening the reactor. The PEPO NESHAP allows owners and operators to use ECO as a control technique to comply with the epoxide standard for process vents.

²⁹ See section III.B of this preamble for a summary of requirements the EPA is finalizing for the PEPO NESHAP under the technology review.

(3) and 112(h), described in sections III.C and III.D of this preamble. This action also reflects several changes to the December 27, 2024, proposal in consideration of comments received during the public comment period, as described in section IV of this preamble.

A. What are the final rule amendments based on the second residual risk review for the PEPO Production source category?

As explained later in this preamble, after further consideration of the issues and public comments received, the EPA is not finalizing the proposed second, "discretionary" residual risk review for the PEPO Production source category.³⁰ Consequently, the EPA is not finalizing any standards under CAA section 112(f)(2), although the Agency is finalizing EtO-specific standards under CAA section 112(d)(6), which requires periodic technology reviews and authorizes the Agency to revise the NESHAP "as necessary." The EtO-specific standards being finalized under CAA section 112(d)(6) are discussed in the following sections.

B. What are the final rule amendments based on the technology review for the PEPO Production source category?

For heat exchange systems, the EPA determined that developments in practices, processes, and control technologies have occurred that warrant revisions to the MACT standards for heat exchange systems in the PEPO Production source category. Therefore, pursuant to CAA section 112(d)(6) and consistent with the proposed rule, the EPA is revising the MACT standards for the heat exchange systems.³¹ These revisions will now require that owners and operators conduct quarterly monitoring for existing and new heat exchange systems (after an initial six months of monthly monitoring if not already completed) using the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater.

The EPA is also finalizing, as proposed, a provision allowing owners and operators to use the current leak monitoring requirements for heat exchange systems at 40 CFR 63.104(b) in lieu of using the Modified El Paso Method, provided that 99 percent by weight or more of the organic

³⁰ See section IV.A of this preamble for additional details.

³¹ See 40 CFR 63.1435(a), which references the Hazardous Organic NESHAP (HON) (*i.e.*, 40 CFR 63.104(g) through (j) and (l)) and accounts for differences between the HON and the PEPO NESHAP.

²⁷ 551 F.3d 1019 (D.C. Cir. 2008).

compounds that could leak into the heat exchange system are both water soluble and have a Henry's Law Constant less than 5.0E-6 atmospheres-cubic meters/mol at 25 degrees Celsius. The EPA is also finalizing requirements under CAA section 112(d)(6) for heat exchange systems that emit EtO. For these heat exchange systems, the EPA is finalizing the term "in ethylene oxide service" at 40 CFR 63.1423(b) to mean any heat exchange system in a process that cools process fluids (liquid or gas) that are 1.0 percent or greater by weight of EtO. In addition, the EPA is finalizing a requirement to conduct monthly monitoring for leaks for heat exchange systems in EtO service using the Modified El Paso Method.³² If an owner or operator finds a leak, the EPA is requiring repair of the leak to reduce the concentration or mass emissions rate below the applicable leak action level as soon as practicable but no later than 45 days after the owner or operator receives results of monitoring tests indicating a leak. The EPA is also not allowing delay of repair of leaks for more than 30 days if subsequent monitoring determines the presence of a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or higher.³³ Sections IV.B.2 through IV.B.4 of this preamble provide a more in-depth analysis of the decision to finalize additional requirements for heat exchange systems operating in EtO service, pursuant to CAA section 112(d)(6).

For storage vessels, the EPA determined that developments in practices, processes, and control technologies have occurred that warrant revisions to the MACT standards for storage vessels in the PEPO Production source category. Therefore, pursuant to CAA section 112(d)(6) and consistent with the proposed rule, the EPA is revising the MACT standards to change the Group 1 storage capacity criterion for storage vessels at new and existing sources, from the former range of 75 m³ (inclusive) to 151 m³ to the new range of 38 m³ (inclusive) to 151 m³,³⁴ and to require upgraded deck fittings and controls for guidepoles for all storage vessels equipped with an IFR, as already required in 40 CFR part 63, subpart WW.³⁵ The EPA is also finalizing requirements under CAA section 112(d)(6) for storage vessels that emit EtO. For these storage vessels, the EPA

is finalizing, pursuant to CAA section 112(d)(6), the term "in ethylene oxide service" at 40 CFR 63.1423(b) to mean that the concentration of EtO in the stored liquid is greater than or equal to 1.0 percent by weight. The EPA is finalizing at 40 CFR 63.1432(s) a requirement—by reference to the Hazardous Organic NESHAP (HON) (*i.e.*, 40 CFR 63.119(a)(5)) and accounting for differences between the HON and the PEPO NESHAP—that PEPO storage vessels in EtO service reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by at least 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent; or (2) venting emissions through a closed vent system to a flare meeting the flare operating requirements that the EPA is finalizing, as proposed, and discussed in section IV.C of this preamble.³⁶ Sections IV.B.2 through IV.B.4 later in this preamble provide a more in-depth analysis of decision to finalize additional requirements for storage vessels in EtO service pursuant to CAA section 112(d)(6).

For continuous process vent requirements, the final rule retains the use of the TRE index value concept and the current definition of a "Group 1 continuous process vent." This definition refers to a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product and that has: (1) a flow rate greater than or equal to 0.005 scmm, (2) a total organic HAP concentration greater than or equal to 50 ppmv, and (3) a TRE index value less than or equal to 1.0. However, for batch process vents, the EPA determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for process vents in the PEPO Production source category. Therefore, pursuant to CAA section 112(d)(6), the EPA is revising the MACT standards, consistent with the proposed rule, to change the Group 1 combination of batch process vents threshold (for batch process vents that are associated with the use of a nonepoxide organic HAP to make or modify the product) from 26,014 lb/yr to 10,000 lb/yr and to remove the associated flow rate applicability threshold specified in the PEPO NESHAP at 40 CFR 63.1423(b). The EPA is also finalizing requirements under CAA section 112(d)(6) for process vents that emit EtO. For these process vents, the EPA is finalizing the term "in

ethylene oxide service" at 40 CFR 63.1423(b) to mean each process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted EtO, and when combined, the sum of all these process vents within the process would emit uncontrolled EtO emissions greater than or equal to 100 lb/yr (45.4 kilograms per year, kg/yr). The EPA is finalizing at 40 CFR 63.1425(g) a requirement that PEPO process vents in EtO service reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by at least 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 100 lb/yr for all combined process vents within the process; or (2) routing emissions through a closed vent system to a flare meeting the flare operating requirements that the EPA is finalizing, as proposed and as discussed in section IV.C of this preamble.³⁷ Sections IV.B.2 through IV.B.4 of this preamble provide a more in-depth analysis of the decision to finalize requirements for process vents in EtO service pursuant to CAA section 112(d)(6).

The EPA's proposed technology review for wastewater streams concluded that no developments in practices, processes, or control technologies warrant revisions to the MACT standards. However, this was because the Agency proposed stringent EtO-specific standards under CAA section 112(f)(2) and thus proposed to conclude that additional standards were not "necessary" under CAA section 112(d)(6). In response to comments recommending that the EPA evaluate the proposed EtO-specific standard for wastewater under CAA section 112(d)(6), the EPA is finalizing an EtO-specific standard for wastewater as "necessary" under CAA section 112(d)(6) rather than under CAA section 112(f)(2) as initially proposed.

Based on this evaluation, the EPA is finalizing additional requirements under CAA section 112(d)(6) for wastewater that contains, and thus emits, EtO. For these wastewater streams, the EPA is finalizing the term "in ethylene oxide service" at 40 CFR 63.1423(b) to mean any wastewater stream that contains a total annual average concentration of EtO greater than or equal to 10 parts per million by weight (ppmw) at any flow rate. The EPA is finalizing at 40 CFR 63.1433(s)(23) a requirement—by reference to the HON and accounting for differences between the HON and the

³² See 40 CFR 63.1435(i), which references the HON and accounts for differences between the HON and the PEPO NESHAP.

³³ See 40 CFR 63.1435(i).

³⁴ See table 3 to 40 CFR part 63, subpart PPP.

³⁵ See 40 CFR 63.1432, which refers to the HON including 40 CFR 63.119(b)(5)(ix), (x), (xi), and (xii).

³⁶ See 40 CFR 63.1436.

³⁷ See 40 CFR 63.1436.

PEPO NESHAP—that owners and operators reduce the concentration of EtO of each wastewater stream, by removal or destruction, to a level less than 1 ppmw, or comply with the Group 1 wastewater stream control requirements outlined in 40 CFR 63.138(d) or (e). Additionally, the EPA is finalizing an exemption to this requirement for wastewater streams in EtO service that cumulatively contain less than 1 megagram (approximately 1.1 tons) of EtO per year. Sections IV.B.2 through IV.B.4 of this preamble provide a more in-depth analysis of the decision to finalize requirements for wastewater in EtO service pursuant to CAA section 112(d)(6).

For equipment leaks, the EPA determined there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for equipment leaks in the PEPO Production source category. Therefore, pursuant to CAA section 112(d)(6) and consistent with the proposed rule, the EPA is revising the MACT standards to use a leak definition of 100 ppmv for valves that are in either gas/vapor service or light liquid service.³⁸ The EPA is also finalizing requirements under CAA section 112(d)(6) for equipment that emits EtO via equipment leaks. For this equipment, the EPA is finalizing the term “in ethylene oxide service” at 40 CFR 63.1423(b) to mean any equipment that contains or contacts a fluid (liquid or gas) that is at least 1.0 percent by weight EtO. The EPA is finalizing at 40 CFR 63.1434(a)(3) requirements—by reference to the HON and accounting for differences between the HON and the PEPO NESHAP—for quarterly monitoring at a leak definition of 100 ppmv for connectors in gas and vapor service or in light liquid service in EtO service, monthly monitoring at a leak definition of 100 ppmv for valves in gas and vapor service or in light liquid service in EtO service, and monthly monitoring at a leak definition of 500 ppmv for pumps in light liquid service in EtO service. Additionally, the EPA is finalizing requirements for owners or operators to repair a detected leak as soon as practicable but no later than 15 days after collecting the sample, allowing delayed repair for a small amount of equipment in EtO service.³⁹ Sections IV.B.2 through IV.B.4 later in this preamble provide a more in-depth analysis of the decision to finalize additional requirements for equipment

in EtO service pursuant to CAA section 112(d)(6).

Section III.E of this preamble provides a detailed discussion of the effective and compliance dates for the requirements the EPA is finalizing in this action for the PEPO NESHAP. Section IV.B.3 of this preamble provides a summary of key comments the EPA received on the proposed CAA section 112(d)(6) provisions and the Agency's responses. Section IV.B.3 also explains the basis for the EPA's decision to finalize specific requirements for EtO emissions under CAA section 112(d)(6).

C. What are the final rule amendments we are taking pursuant to CAA section 112(d)(2) and (3) and 112(h) for the PEPO Production source category?

Consistent with *Sierra Club v. EPA*⁴⁰ and the proposed rule,⁴¹ the EPA is revising monitoring and operational requirements for flares to ensure that PEPO flares meet MACT standards at all times when controlling HAP emissions.⁴² In addition, the EPA is finalizing provisions and clarifications for bypass lines on closed vent systems.⁴³ The EPA is also finalizing work practice standards for certain activities where alternatives are appropriate, including:

- maintenance vents and equipment openings (excluding storage vessel degassing);⁴⁴
- storage vessel degassing;⁴⁵ and
- planned routine maintenance for storage vessels.⁴⁶

The EPA is also finalizing the proposed requirements for several other PEPO emission sources, including:

- pressure vessels;⁴⁷
- surge control and bottoms receivers;⁴⁸
- transfer racks;⁴⁹
- process units using butylene oxide;⁵⁰ and

- affected source reactions or processing that occur after completion of epoxide polymerization and all catalyst removal steps, if any (which may include, but are not limited to, solvent removal, purification, drying, and solids handling operations).⁵¹

The EPA is finalizing the requirements with a few changes from the proposed rule, after considering comments the EPA received during the public comment period. In response to comments received on the proposed provisions for flares, the EPA is allowing the use of pressure-assisted multi-point flares as a control option, provided they meet certain operational and monitoring requirements. In response to comments received on the proposed provisions for affected source reactions or processing that occur after completion of epoxide polymerization and all catalyst removal steps, the EPA is including overlap provisions for owners and operators currently complying with the Miscellaneous Organic Chemical Manufacturing NESHAP (MON).

The comments and the EPA's specific responses to the items discussed earlier in this preamble are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking, and in section IV.C.3 of this preamble.

D. What other changes have we made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other PEPO NESHAP requirements. This section describes these revisions, as well as other provisions that have changed since proposal.

To increase the ease and efficiency of data submittal and data accessibility, the EPA is finalizing, as proposed, a requirement that owners or operators submit electronic copies of continuous monitoring system performance evaluations,⁵² flare management plans, Notification of Compliance Status reports, and periodic reports through the EPA's CDX using the CEDRI.⁵³ The PEPO NESHAP already requires electronic submittal of performance test results collected using test methods that are compatible with the EPA-provided

⁴⁰ 551 F.3d 1019 (D.C. Cir. 2008).

⁴¹ 89 FR 105986 (Dec. 27, 2024).

⁴² See 40 CFR 63.1436.

⁴³ See 40 CFR 63.1425(f), by references to 40 CFR 63.114(d)(2) and (3), 63.118(a)(5) and (f)(7), 40 CFR 63.1429(c)(3), and 40 CFR 63.1430(d)(6) and (h)(7).

⁴⁴ See 40 CFR 63.1425(f) by reference to 40 CFR 63.113(k) for process vents at PMPUs that produce PEPO products using THF, and 40 CFR 63.1425(h) for all other regulated PEPO process vents.

⁴⁵ See 40 CFR 63.1432(a), by reference to 40 CFR 63.119(a)(6).

⁴⁶ See 40 CFR 63.1432(a), by reference to 40 CFR 63.119(e)(7).

⁴⁷ See 40 CFR 63.1432(a), by reference to 40 CFR 63.119(a)(7).

⁴⁸ See 40 CFR 63.1434(a)(7).

⁴⁹ See 40 CFR 63.1434(i), which references the HON at 40 CFR 63.126 through 63.130 and accounts for difference between the HON and the PEPO NESHAP.

⁵⁰ See 40 CFR 63.1423(b) for the definition of “epoxide” and the list of HAP presented in table 4 to the PEPO NESHAP.

⁵¹ See 40 CFR 63.1420(d)(3).

⁵² If a continuous emission monitoring system (CEMS) is used to continuously monitor the EtO concentration at the exit of an air pollution control device (APCD) as allowed at 40 CFR 63.1426(g) and 40 CFR 63.1432(s), by reference to 40 CFR 63.124.

⁵³ See 40 CFR 63.1436(b); and 40 CFR 63.1439(e)(5), (6), and (9).

³⁸ See 40 CFR 63.1434(a)(6).

³⁹ See 40 CFR 63.1434(a)(3).

software. In addition to the new electronic reporting requirements, the EPA is making minor updates to the electronic reporting language for performance tests that do not change the requirements but reflect the EPA's current electronic reporting process (e.g., noting the required software and the system to which the reports are submitted). A description of the electronic data submission process is in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*.⁵⁴ The final rule requires that owners and operators submit performance test results in the format generated through the use of the EPA's Electronic Reporting Tool (ERT) or an electronic file consistent with the XML schema on the ERT website.⁵⁵ Similarly, owners and operators must submit performance evaluation results of CEMS in the format generated through the use of the ERT or an electronic file consistent with the XML schema on the ERT website. For both performance test results and CEMS performance evaluation results, all the information required by 40 CFR 63.7(g)(2) in PDF format must accompany electronic files consistent with the XML schema on the ERT website.

For periodic reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The EPA has made minor clarifying edits to the spreadsheet templates based on comments received during the public comment period. The final version of the template for these reports will be on the CEDRI website.⁵⁶ The final rule requires that owners or operators submit flare management plans as a PDF upload in CEDRI. For a more detailed discussion of these final amendments, see section III.E.2 of the proposal preamble, as well as sections IV.D and VI.C of this preamble.

The EPA is also finalizing at 40 CFR 63.1437(a), as proposed, performance testing once every five years to demonstrate compliance with emission limits for certain process vents that route emissions to a control device other than a flare. Specifically, the EPA is finalizing the removal of the design evaluation option at 40 CFR 63.1426(b)(6) and (7) and (f) and requiring ongoing performance tests for

owners and operators using a combustion, recovery, or recapture device to comply with: an epoxide or organic HAP percent reduction efficiency requirement in 40 CFR 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2); an epoxide concentration limitation in 40 CFR 63.1425(b)(1)(ii) or (b)(2)(iii); or an annual epoxide emission limitation in 40 CFR 63.1425(b)(1)(iii) or (b)(2)(iv).

The EPA is also finalizing, as proposed, the elimination of the option in 40 CFR 63.1427(a)(2)(ii) that exempts owners and operators using ECO as a control technique from the requirement to directly measure the concentration of unreacted epoxide for a representative product of each product class when determining the batch cycle percent epoxide emission reduction. However, based on comments received on the proposed rulemaking, in the final rule the EPA is limiting the number of product classes requiring direct measurement.⁵⁷

Also, the EPA is finalizing as proposed both the phrasing used in 40 CFR 63.1423(a) to refer to 40 CFR part 63, subpart F, in instances where a definition in the PEPO NESHAP points to either 40 CFR part 63, subpart G or H, and the clarifying revisions to 40 CFR 63.1423(b) to reference the correct HON citation for "continuous recorder," "maximum true vapor pressure," "residual," and "waste management unit." Additionally, the EPA is finalizing the proposed definition of "heat exchange system" at 40 CFR 63.1423(b) to mean a device or collection of devices used to transfer heat from process fluids to water without intentional direct contact of the process fluid with the water (i.e., non-contact heat exchanger) and to transport and/or cool the water in a closed-loop recirculation system (cooling tower system) or a once-through system (e.g., river or pond water). For closed-loop recirculation systems, the heat exchange system consists of a cooling tower, all PMPU heat exchangers that are in organic HAP service and serviced by that cooling tower, and all water lines to and from these process unit heat exchangers. For once-through systems, the heat exchange system consists of all heat exchangers in an individual PMPU that are in organic HAP service and all water lines to and from these heat exchangers. Sample coolers or pump seal coolers are not considered heat exchangers for the purpose of this definition and are not part of the heat exchange system. Intentional direct contact with process fluids results in the

formation of a wastewater. The EPA is also finalizing the proposed definition of "in organic HAP service" to include a heat exchange system, to be consistent with the use of "in organic HAP service" in the definition of "heat exchange system."

In addition, the EPA is finalizing requirements, as proposed, at 40 CFR 63.1429(a)(9) for owners or operators using adsorbers that cannot be regenerated or using regenerative adsorbers that are regenerated offsite to use dual (two or more) adsorbent beds in series and to conduct monitoring of HAP or total organic compound (TOC) on the outlet of the first adsorber bed in series using a sample port and a portable analyzer or chromatographic analysis. Lastly, the EPA is finalizing all the revisions that the Agency proposed for clarifying text and correcting typographical errors, grammatical errors, and cross-reference errors. The EPA discussed these editorial corrections and clarifications in section IV.E.7 of the proposal preamble. The EPA is also including several minor clarifying edits in the final rule based on comments received during the public comment period.

The comments and the EPA's specific responses to the items discussed in this section are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking, and section IV.D.3 of this preamble.

E. What are the effective and compliance dates of the standards?

For all the requirements the EPA is finalizing under CAA section 112(d)(2), (3), and (6) and 112(h), all existing affected sources and all affected sources that were new sources under the previous PEPO NESHAP (i.e., any source that commenced construction or reconstruction after September 4, 1997, and on or before December 27, 2024) must comply with all of the amendments no later than March 18, 2029, or upon startup, whichever is later. For existing sources, CAA section 112(i) provides that the compliance date for standards promulgated under section 112(d) shall be as expeditious as practicable, but no later than three years after the effective date of the standard.⁵⁸ The EPA agrees with commenters that owners and operators need at least three

⁵⁴ Document ID No. EPA-HQ-OAR-2023-0282-0016.

⁵⁵ <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

⁵⁶ <https://www.epa.gov/electronic-reporting-air-emissions/cedri>.

⁵⁷ See 40 CFR 63.1427(a)(2)(iii).

⁵⁸ *Ass'n of Battery Recyclers*, 716 F.3d at 672 ("Section 112(i)(3)'s three-year maximum compliance period applies generally to any emission standard . . . promulgated under [section 112].").

years to implement the requirements the Agency is finalizing under CAA section 112(d)(2), (3), and (6).⁵⁹ For example, for process vents and storage vessels in EtO service, if an affected source has uncontrolled process vents or storage vessels that meet the definition of “in ethylene oxide service,” owners or operators may need to install a new control system, such as a thermal oxidizer with piping, ductwork, etc. Owners or operators may require additional permits (e.g., New Source Review and/or title V operating permit modifications) to install new emission control equipment. Moreover, owners and operators need at least three years to understand the final rule changes; revise site guidance and compliance programs; ensure operations can meet the standards during startup and shutdown; update operation, maintenance, and monitoring plans; upgrade emission capture and control systems; install new flare monitoring equipment; and install new process control systems. As provided in CAA section 112(i) and 5 U.S.C. 801(3), all new affected sources that commenced construction or reconstruction after December 27, 2024, must comply with all requirements under CAA section 112(d)(2), (3), (6), and 112(h) by March 18, 2026, or upon startup, whichever is later. The EPA provided additional rationale for these compliance dates in the preamble to the proposed rule. The EPA is also finalizing provisions, as proposed, that provide 60 days after the publication date of the final rule (or upon startup, whichever is later) for owners or operators of affected sources to comply with the requirement to submit Notification of Compliance Status reports electronically. The EPA is finalizing provisions that provide 60 days after the publication date of the final rule for owners or operators of affected sources to comply with the requirement to submit the results of CEMS performance evaluations electronically. The EPA is also finalizing provisions, as proposed, that provide three years after the publication date of the final rule for owners or operators of affected sources to comply with the requirements to submit periodic reports and flare management plans electronically.

IV. What is the rationale for our final decisions and amendments for the PEPO Production source category?

For each issue, this section provides a description of what the EPA proposed and what the Agency is finalizing, the EPA’s rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA’s responses are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

A. Second Residual Risk Review for the PEPO Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the PEPO Production source category?

Although the EPA’s statutory and consent decree obligations are limited to the technology review requirement in CAA section 112(d)(6) and reconsideration of specific 2014 RTR issues, the EPA proposed a second, “discretionary” residual risk review for the PEPO Production source category along with EtO-specific standards intended to reduce risk based on the proposed findings. In this proposed review, the EPA identified six facilities that emit EtO from process vents, storage vessels, equipment leaks, or wastewater and have estimated individual cancer risks greater than 100-in-1 million in nearby communities. Additionally, in the proposed review, the EPA noted that an allowable leak of EtO from a heat exchange system could contribute to individual cancer risks greater than 100-in-1 million. Thus, the EPA proposed control options under CAA section 112(f) to reduce EtO risk from the PEPO Production source category.

In connection with the proposed second residual risk review, the EPA proposed to require further control of EtO emissions from: (1) process vents, (2) storage vessels, (3) equipment leaks, (4) heat exchange systems, and (5) wastewater in EtO service. The proposed definitions for being in EtO service included:

- For process vents, the EPA proposed “in ethylene oxide service” to mean that when uncontrolled, each process vent contains a concentration of greater than or equal to 1 ppmv undiluted EtO, and when combined, the sum of all process vents within the process would emit uncontrolled EtO

emissions greater than or equal to 5 lb/yr.

- For storage vessels of any capacity and vapor pressure, the EPA proposed “in ethylene oxide service” to mean that the concentration of EtO within the tank liquid is greater than or equal to 0.1 percent by weight.

- For equipment leaks, the EPA proposed “in ethylene oxide service” to mean any equipment that contains or contacts a fluid (liquid or gas) that is at least 0.1 percent by weight of EtO.

- For heat exchange systems, the EPA proposed “in ethylene oxide service” to mean any heat exchange system in a process that cools process fluids (liquid or gas) that are 0.1 percent or greater by weight of EtO.

- For wastewater, the EPA proposed “in ethylene oxide service” to mean any wastewater stream that contains total annual average concentration of EtO greater than or equal to 1 ppmw at any flow rate.

For process vents and storage vessels in EtO service, the EPA proposed that owners and operators reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each process vent and storage vessel, or (2) venting emissions through a closed vent system to a flare that meets new proposed operating and monitoring requirements for flares. For process vents, the EPA also proposed an annual limit of 5 lb/yr or less for all combined process vents as an alternative to the percent control and concentration options. For equipment leaks in EtO service, the EPA proposed the following combined requirements: monitoring of connectors in gas/vapor and light liquid service at a leak definition of 100 ppmv on a monthly basis with no reduction in monitoring frequency and no delay of repair; monthly monitoring of light liquid pumps at a leak definition of 500 ppmv; and monthly monitoring of gas/vapor and light liquid valves at a leak definition of 100 ppmv with no reduction in monitoring frequency and no delay of repair. For heat exchange systems in EtO service, the EPA proposed to require owners or operators to conduct more frequent leak monitoring (weekly instead of quarterly) and to repair leaks within 15 days from the sampling date (in lieu of the current 45-day repair requirement after receiving results of monitoring indicating a leak), and to not allow owners or operators to delay repairs. For wastewater in EtO service, the EPA proposed to revise the Group 1

⁵⁹ See section 7.0 of U.S. EPA, *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, in the docket for this rulemaking.

wastewater stream threshold for sources to include wastewater streams in EtO service and to prohibit owners and operators from injecting wastewater in EtO service into or disposing of water through any heat exchange system in a PMPU.

In all cases, the EPA proposed that if information exists that suggests EtO could be present in these processes, the emission source is considered to be in EtO service unless the owner or operator conducts the procedures specified in 40 CFR 63.109 to demonstrate that the emission source does not meet the definition of being in EtO service. The EPA proposed that examples of information that could suggest EtO is present in a process stream include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results, provided the results are still relevant to the current operating conditions.

At the time of proposal and in the context of proposing to use CAA section 112(f)(2) for this purpose, the EPA found that these proposed requirements would reduce risk to an acceptable level and provide an ample margin of safety to protect public health, and no additional requirements were necessary to prevent an adverse environmental effect.

2. How did the risk review change for the PEPO Production source category?

In this final rule, the EPA is not finalizing the proposed second residual risk review for the PEPO Production source category and instead is assessing and finalizing EtO-specific standards pursuant to CAA section 112(d)(6). Consequently, the EPA is not finalizing the EtO-specific standards outlined in section IV.A.1 in this action under CAA section 112(f)(2).

3. What key comments did we receive on the risk review, and what are our responses?

The EPA received numerous comments in support of and in opposition to the Agency's proposed second residual risk review for the PEPO Production source category. As the EPA has decided to not finalize any components of the proposed second residual risk review for the PEPO Production source category, the Agency is not including in this final preamble any comment summaries or responses that are related to the proposed second residual risk review authority, methodology or findings. Instead, all these comments summaries are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air*

Pollutants for Polyether Polyols Production Industry in the docket for this rulemaking. This section provides a summary of and response to commenters' requests to consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of CAA section 112(f)(2).

Comment: Regarding the decision to propose a second residual risk review under CAA section 112(f)(2), some commenters supported the risk review, but multiple commenters urged the EPA to consider regulatory alternatives that provide the EPA with more flexibility. Commenters noted that the EtO-specific standards are driven by technology developments for emissions control devices and monitoring requirements and are thus aligned with the CAA section 112(d)(6) technology review. Commenters emphasized that the EPA should consider cost when setting EtO-specific standards. Commenters also stated that the EPA should allow facilities three years to comply with the new EtO-specific standards.

Specifically, multiple commenters suggested that the EPA consider evaluating EtO-specific standards (for process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in EtO service) under CAA section 112(d)(6) instead of under CAA section 112(f)(2). For example, one commenter urged the EPA to "withdraw the risk-based portions of the proposal and repropose under the technology review provisions" and that "more reasonable actions could achieve meaningful reductions of E[t]O . . . while providing feasible reductions and protecting the supply chain."⁶⁰ The commenter also requested that the EPA promulgate cost-effective standards for equipment leaks under CAA section 112(d)(6) that will reduce emissions of both organic HAP and EtO. Another commenter stated that the EPA "should categorize and base the proposed ethylene oxide requirements for Process Vents, Storage Tanks, and Wastewater under Section 112(d) of the Clean Air Act instead of under the Section 112(f) residual risk requirements." The commenter continued, "In some cases, capital projects will have to be implemented to meet the new emission standards. The details of these requirements are largely developments in technology that require installing or revising air pollution control equipment for process vents or storage tanks and installing unit operations to remove ethylene oxide from process wastewater streams. These technologies will also

require testing to confirm removal efficiency or outlet concentrations along with the establishment of operating parameters, and the continuous monitoring of operating parameters. In some cases, the owner or operator will have to request approval of the operating parameters to monitor from regulatory agencies on a case-by-case basis. Taken together, these requirements align more with Section 112(d) of the Clean Air Act."⁶¹

Response: The EPA agrees with commenters that it is more appropriate to evaluate EtO-specific standards under CAA section 112(d)(6). CAA section 112(d)(6) provides that the EPA should consider cost in deciding whether to revise the standards and allows a maximum compliance timeline of three years (in contrast to the maximum of two years allowed by CAA section 112(f)(2)). While the EPA may have proposed EtO-specific standards under CAA section 112(f)(2), the proposal demonstrated that there are developments in practices, processes, and control technologies for reducing EtO emissions that merit evaluation under CAA section 112(d)(6). As explained in section IV.B.3 of this preamble, the EPA's evaluation under CAA section 112(d)(6) finds it appropriate to revise the PEPO NESHAP to include additional standards for EtO. The EPA also agrees that facilities would encounter significant difficulties complying with some of the proposed requirements within two years as required by CAA section 112(f)(2).

4. What is the rationale for our final approach and final decisions for the risk review?

In 2014, the EPA finalized a residual RTR for the PEPO NESHAP under the provisions of CAA section 112(f)(2) and (d)(6).⁶² In 2024, the EPA proposed a second residual risk review for the PEPO Production source category and proposed to address residual risks associated with EtO emissions from this source category, both pursuant to CAA section 112(f)(2). This was consistent with other recent approaches taken by the EPA to address EtO emissions from chemical manufacturing facilities such as the 2024 rulemaking amending the HON.⁶³ The EPA is not finalizing the residual risk review or the risk-based standards proposed in 2024 pursuant to CAA section 112(f)(2). Several commenters requested that the EPA

⁶¹ Comment ID No. EPA-HQ-OAR-2023-0282-0099.

⁶² 79 FR 17340 (Mar. 27, 2014).

⁶³ See 89 FR 42932 (May 16, 2024), 2024 final rule amending the HON.

⁶⁰ Comment ID No. EPA-HQ-OAR-2023-0282-0103.

consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of under CAA section 112(f)(2). The EPA agrees with these commenters that, in this circumstance, the technology review is the more appropriate authority to use to target EtO emissions. The EPA also notes that the consent decree requiring review of this NESHAP specifies that a technology review under CAA section 112(d)(6) must be completed, but it does not require a residual risk review under CAA section 112(f)(2). The EPA acknowledges that the evaluations conducted for the proposed CAA section 112(f)(2) review demonstrated that there are developments in practices, processes, or technology that can meaningfully reduce EtO emissions for the PEPO Production source category. Thus, in response to comments that the CAA section 112(d)(6) framework is more appropriate to analyze these options, the EPA is finalizing revisions that reflect those developments under the CAA section 112(d)(6) authority, which requires the Agency to consider factors such as cost, in lieu of finalizing the proposed CAA section 112(f)(2) review. See section IV.B.2 of this preamble for details regarding the EPA's CAA section 112(d)(6) review for reducing EtO emissions. The EPA notes that these finalized EtO-specific CAA section 112(d)(6) standards result in projected overall EtO emissions reductions from the PEPO source category similar to those reductions projected for the proposal. For all six facilities estimated in the proposed risk assessment to have baseline source category cancer risks greater than 100-in-1 million in nearby communities, the EPA estimates that the final rule will result in significant emissions reductions from baseline, which would lead to significant risk reductions compared to baseline. Revisions to the baseline EtO emissions estimate of one of the facilities have been incorporated into the EPA's final impact analysis. More information about the estimated impacts of this final action is in the document titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking.

B. Technology Review for the PEPO Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the PEPO Production source category?

Based on the EPA's technology review for the PEPO Production source category, the Agency proposed changes

under CAA section 112(d)(6) to the PEPO NESHAP for heat exchange systems, storage vessels, process vents, and equipment leaks in organic HAP service. In addition, the EPA proposed no change under CAA section 112(d)(6) for wastewater streams in organic HAP service. The EPA also proposed fenceline monitoring requirements under CAA section 112(d)(6). This section provides a summary of the Agency's findings, as proposed in 2024.

a. Heat Exchange Systems

In the EPA's technology review for the PEPO Production source category, the Agency identified one development in practices and processes for PEPO heat exchange systems in organic HAP service—the use of the Modified El Paso Method for monitoring for leaks from heat exchange systems.⁶⁴ The EPA determined that this method is more effective in identifying leaks and measures a larger number of compounds than the previously required methods in the PEPO NESHAP. After evaluating state and Federal regulations requiring the Modified El Paso Method and emission data collected for the Ethylene Production RTR,⁶⁵ the EPA proposed pursuant to CAA section 112(d)(6) to require use of the Modified El Paso Method with a leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas to further reduce HAP emissions from both new and existing heat exchange systems, as well as to disallow delay of repair of leaks if the measured concentration meets or exceeds 62 ppmv. Based on an evaluation of incremental HAP cost effectiveness to increase the monitoring frequency, the EPA proposed no changes to the monitoring frequency in the PEPO NESHAP for monitoring for leaks from heat exchange systems, which continues to be monthly monitoring in the first six months following startup of a source and quarterly monitoring thereafter. The EPA also proposed to require re-monitoring at the relevant monitoring location after repair of a leak to ensure the repair was successful. Further, the EPA proposed that none of these proposed requirements for heat exchange systems apply to heat

exchange systems that have a maximum cooling water flow rate of 10 gallons per minute or less. Finally, the EPA proposed that owners and operators may use the current leak monitoring requirements for heat exchange systems at 40 CFR 63.104(b) in lieu of using the Modified El Paso Method, provided that 99 percent by weight or more of the organic compounds that could leak into the heat exchange system are water soluble and have a Henry's Law Constant less than 5.0×10^{-6} atmospheres-cubic meters/mol at 25 degrees Celsius. See section IV.C.1 of the proposal preamble for a summary of the EPA's rationale for selecting the proposed leak method, leak definition, and limitation on delay of repairs, as well as the Agency's rationale for retaining the previous monitoring schedule.

For a detailed discussion of the EPA's findings, see the document titled *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the PEPO Production Source Category that are Associated with Processes Subject to the PEPO NESHAP*.⁶⁶

b. Storage Vessels

In the EPA's technology review for the PEPO Production source category, the EPA identified three control options for further reducing emissions from PEPO storage vessels in organic HAP service. See section IV.C.2 of the proposal preamble for a summary of the three options. Based on the evaluation of the costs and emission reductions of each of the three options, the EPA proposed, pursuant to CAA section 112(d)(6), to: (1) revise the Group 1 PEPO storage vessel capacity and maximum true vapor pressure (MTVP) thresholds to reflect the HON existing source threshold, which requires existing storage vessels between 38 m³ (inclusive) and 151 m³ with a vapor pressure greater than or equal to 6.9 kPa to reduce emissions of organic HAP by 95 percent utilizing a closed vent system and control device, or to reduce organic HAP emissions by utilizing an IFR, an external floating roof, routing the emissions to a process or a fuel gas system, or vapor balancing; and (2) require upgraded deck fittings and controls for guidepoles for all storage vessels equipped with an IFR.⁶⁷

⁶⁴ Texas Commission on Environmental Quality, Sampling Procedures Manual, Appendix P: *The Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound (VOC) Emissions from Water Sources* (included in EPA-HQ-OAR-2023-0282-0030) describes in the detail the Modified El Paso Method. Appendix P is included in the docket for this rulemaking.

⁶⁵ See section II.D of the proposal preamble and the Ethylene Production RTR rulemaking docket, Docket ID No. EPA-HQ-OAR-2017-0357.

⁶⁶ Document ID No. EPA-HQ-OAR-2023-0282-0072.

⁶⁷ The EPA requires all openings in an IFR (except those for automatic bleeder vents (vacuum breaker vents), rim space vents, leg sleeves, and deck drains) to be equipped with a deck cover, and the deck cover is required to be equipped with a gasket between the cover and the deck.

For a detailed discussion of the EPA's findings, see the document titled *Clean Air Act Section 112(d)(6) Technology Review for Storage Vessels Located in the PEPO Production Source Category that are Associated with Processes Subject to the PEPO NESHAP*.⁶⁸

c. Process Vents

The EPA's technology review for PEPO process vents in organic HAP service did not identify any control options associated with: (1) epoxide (*i.e.*, EtO, propylene oxide, butylene oxide, and epichlorohydrin) emissions resulting from the use of these chemicals as reactants or (2) emissions of nonepoxide organic HAP resulting from their use in catalyst extraction. However, the EPA identified three emission reduction options as part of the Agency's technology review for continuous process vents associated with nonepoxide organic HAP from making or modifying product and process vents associated with affected sources that produce PEPO using THF. See section IV.C.3 of the proposal preamble for a summary of the three options. Based on the EPA's evaluation of the costs and emission reductions of each of the three options, the Agency proposed pursuant to CAA section 112(d)(6) to remove the TRE index value concept in its entirety from the PEPO NESHAP. The EPA also proposed, pursuant to CAA section 112(d)(6), to remove the 50 ppmv and 0.005 scmm thresholds from the Group 1 definition for continuous process vents associated with nonepoxide organic HAP and the Group 1 process vent applicability associated with a PMPU using THF and instead to require owners and operators of these process vents that emit greater than or equal to 1.0 lb/hr of total organic HAP to meet the current control standards in the PEPO NESHAP. In addition, the EPA identified one option for reducing emissions from the combination of batch process vents that are associated with the use of a nonepoxide organic HAP to make or modify the product. Consequently, the EPA proposed pursuant to CAA section 112(d)(6) to revise the PEPO NESHAP control threshold for these batch process vents from 26,014 lb/yr to 10,000 lb/yr and to remove the associated flow rate applicability thresholds (including the Group 1 process vent thresholds of annual organic HAP emissions mass flow rate, cutoff flow rate, and annual average batch vent flow rate from the definition of "Group 1 combination of

batch process vents" specified in the PEPO NESHAP at 40 CFR 63.1423(b)).

For a detailed discussion of the EPA's findings, see the document titled *Clean Air Act Section 112(d)(6) Technology Review for Batch and Continuous Process Vents in the PEPO Production Source Category that are Associated with Processes Subject to the PEPO NESHAP*.⁶⁹

d. Equipment Leaks

In the EPA's technology review for the PEPO Production source category, the EPA identified three control options for further reducing emissions from leaks of equipment in organic HAP service at PEPO facilities. See section IV.C.5 of the proposal preamble for a summary of the three options. Based on the EPA's evaluation of the costs and emission reductions of each of the three options, the Agency proposed pursuant to CAA section 112(d)(6) to revise the PEPO NESHAP to use a leak definition of 100 ppmv for valves that are in either gas/vapor service or light liquid service.

For a detailed discussion of the EPA's findings, see the document titled *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the PEPO Production Source Category that are Associated with Processes Subject to the PEPO NESHAP*.⁷⁰

e. Fenceline Monitoring

In the EPA's technology review for the PEPO Production source category, the Agency proposed a fenceline monitoring standard requiring owners and operators to monitor for EtO if their affected source uses, produces, stores, or emits EtO and to conduct root cause analysis and corrective action if the affected source exceeds an annual average EtO concentration action level of 0.2 µg/m³. For a detailed discussion of the EPA's findings, see the document titled *Clean Air Act Section 112(d)(6) Technology Review for Fenceline Monitoring Located at Facilities with PEPO Production Processes Subject to the PEPO NESHAP*.⁷¹

2. How did the technology review change for the PEPO Production source category?

Apart from the proposed requirements for continuous process vents and fenceline monitoring, the EPA is finalizing the results of the technology review pursuant to CAA section 112(d)(6) for the PEPO Production

source category as proposed with two minor clarifications related to the heat exchange system and storage vessel provisions of the review. For continuous process vent requirements, the final rule retains the use of the TRE index value concept and the current definition of a "Group 1 continuous process vent."⁷² This definition refers to a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product and that has: (1) a flow rate greater than or equal to 0.005 scmm, (2) a total organic HAP concentration greater than or equal to 50 ppmv, and (3) a TRE index value less than or equal to 1.0. Additionally, the final rule excludes all elements of the proposed fenceline monitoring requirements. With regard to the heat exchange system portion of the EPA's proposed technology review, the EPA is clarifying that the PEPO NESHAP does not require owners and operators to monitor their regulated heat exchange systems using water sampling methods or a surrogate indicator (*i.e.*, comply with the provisions in either 40 CFR 63.104(b) or (c)) if the heat exchange system is monitored for leaks using the Modified El Paso Method (according to 40 CFR 63.104(g)). For the storage vessel portion of the EPA's proposed technology review, the Agency is allowing more time (*i.e.*, either the next time the storage vessel is emptied and degassed, or no later than March 18, 2036) for owners and operators to install upgraded deck fittings and controls for guidepoles for all storage vessels equipped with an IFR. For more details regarding these changes to the EPA's technology review, see section IV.B.3 of this preamble.

Additionally, in this final action, the EPA has reevaluated control options under the authority of CAA section 112(d)(6) for process vents, storage vessels, equipment, heat exchange systems, and wastewater that emit EtO.

⁷² The TRE index value is derived from the cost effectiveness associated with HAP control by a flare or thermal oxidation and is a function of vent stream flowrate, vent stream net heating value, hourly emissions, and a set of coefficients. The TRE index value was first introduced in an EPA document titled *Guideline Series for Control of Volatile Organic Compound (VOC) Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry (SOCMI)* (see EPA-450/3-84-015 (Dec. 1984)). The EPA incorporated the TRE concept into the original HON (see 59 FR 19468 (Apr. 22, 1994)) and the original PEPO NESHAP rulemaking (see 64 FR 29420 (June 1, 1999)). The TRE index value is used in 40 CFR 63, subpart G, and 40 CFR 63, subpart PPP, process vent regulations. The TRE index value can also trigger monitoring, recordkeeping, and reporting requirements. In general, continuous process vents with a TRE index value equal to or less than 1.0 require control.

⁶⁸ Document ID No. EPA-HQ-OAR-2023-0282-0065.

⁶⁹ Document ID No. EPA-HQ-OAR-2023-0282-0070.

⁷⁰ Document ID No. EPA-HQ-OAR-2023-0282-0074.

⁷¹ Document ID No. EPA-HQ-OAR-2023-0282-0056.

As part of this review, the EPA considered relevant comments from the proposed CAA section 112(f)(2) analysis (which the Agency is not finalizing in this action) that could inform or support the Agency's current evaluation under CAA section 112(d)(6).⁷³ Based on this reassessment, the EPA is finalizing requirements for EtO-emitting sources that reflect a higher level of control than those being finalized under CAA section 112(d)(6) for the same types of sources in organic HAP service that do not emit EtO. Section III.B of this preamble describes the specific requirements for EtO emissions that the EPA is finalizing. Section IV.B.3 of this preamble explains the Agency's decision to finalize them under CAA section 112(d)(6).

3. What key comments did we receive that are relevant to the technology review, and what are our responses?

The EPA received comments in support of and against the proposed technology review. The EPA only received minor comments requesting clarifications associated with the Agency's technology review for heat exchange systems, storage vessels, and wastewater in organic HAP service. Commenters argued that the Agency should not revise the leak definition for valves in gas/vapor or light liquid service from 500 to 100 ppmv and should instead re-open and reevaluate the MACT standards for new technologies for equipment leaks. The comments and the EPA's specific responses to these issues are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking. Based on these comments, the EPA is finalizing revisions (along with the minor clarifications described in section IV.B.2 of this preamble) to require the Modified El Paso Method for heat exchange systems, and the EPA is finalizing revisions to the Group 1 PEPO storage vessel capacity and MTVP thresholds and a requirement for owners and operators to upgrade deck fittings and controls for guidepoles for all storage vessels equipped with an IFR. For equipment leaks, the EPA is finalizing, as proposed, a leak definition for valves in gas/vapor or light liquid service of 100 ppm. The EPA is finalizing the Agency's proposed determination that there are currently

no cost-effective developments for the organic HAP standards for wastewater.

For continuous process vents in organic HAP service, the EPA received numerous comments opposing the EPA's proposal under the technology review to abandon the TRE index value concept in favor of a 1.0 lb/hr mass-limit threshold. The EPA also received several comments regarding the fenceline monitoring requirements that the Agency proposed under the technology review. This section provides summaries of and responses to the key comments received regarding: (1) the technology review amendments proposed for continuous process vents at existing and new affected sources associated with nonepoxide organic HAP (from making or modifying product) and process vents associated with existing and new affected sources that produce PEPO using THF and (2) the proposed fenceline monitoring requirements. Comment summaries and the EPA's responses for additional issues raised regarding the proposed requirements resulting from the technology review for the PEPO source category are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

In addition, as stated previously in this preamble, several commenters requested that the EPA consider evaluating EtO-specific standards (for process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in EtO service) under CAA section 112(d)(6) instead of under CAA section 112(f)(2). As such, the EPA has considered comments on the amendments proposed under CAA section 112(f)(2) that inform or support the Agency's current CAA section 112(d)(6) analysis. This section summarizes and responds to these comments, presenting the outcomes and decisions from the EPA's technology review of process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in the PEPO Production source category that emit EtO.

a. Continuous Process Vents in Organic HAP Service

Comment: Commenters strongly opposed the EPA's proposal to abandon a longstanding compliance option in the PEPO NESHAP (*i.e.*, the TRE index value concept) for continuous process vents in organic HAP service in favor of a 1.0 lb/hr mass-limit threshold.

Commenters provided many reasons for their opposition.

Commenters argued that removing the TRE index value concept from the PEPO NESHAP falls outside the Agency's technology review authority, since no significant control technology advancements had emerged since the 2014 PEPO NESHAP review to warrant eliminating the compliance mechanism.⁷⁴ These commenters pointed out that the EPA had already previously acknowledged that multiple process vents can be routed to a single APCD and old information is not a new development. The commenters also argued that neither a facility's voluntary control of its Group 2 process vents nor enforcement challenges justify eliminating the TRE index value concept from the PEPO NESHAP.

Commenters claimed that the EPA's comparison of proposing to remove the TRE index value concept from the PEPO NESHAP to other NESHAP that omit the TRE index value concept was flawed from the outset. Commenters pointed out that during the Ethylene Production rulemaking, the EPA itself noted "relatively few process vents," making any Group 1 versus Group 2 distinction largely moot. They also emphasized that the EPA did not eliminate the TRE index value concept in its recent MON technology review, and the generic MACT standards under 40 CFR 63, subpart YY, continue to require TRE index value calculations for categories with multiple vent types, underscoring the TRE index value's ongoing regulatory relevance. Commenters also noted that while the HON recently removed the TRE index value, industry objected to the TRE index value's removal, in the form of comments and petitions, some of which are still outstanding. In addition, commenters stated that many facilities will still be required to comply with TRE-based determinations according to their title V operating permits and requirements under New Source Performance Standards 40 CFR 60, subparts NNN and RRR.

Commenters also contended that the EPA had leaned too heavily on one facility's CAA section 114 response (regarding the use of process simulations) to paint the TRE index value concept as unduly complex. The commenters asserted that many plants actually rely on direct source testing to generate inputs for calculating the TRE index value; this approach is not complex and avoids process simulation uncertainty altogether. Commenters emphasized that the EPA had provided

⁷³ In the proposal, the EPA proposed stringent EtO-specific standards under CAA section 112(f)(2) and thus did not consider any additional standards necessary under CAA section 112(d)(6).

⁷⁴ 79 FR 17340 (Mar. 27, 2014).

no examples of cases in which verifying TRE index value calculations was challenging or thwarted accurate cost-effectiveness determinations, and commenters pointed out that both state and Federal programs routinely mandate intricate mathematical formulas without issue.

Additionally, regarding the EPA's determination that some facilities are voluntarily controlling continuous process vents that are not required by the NESHAP, commenters highlighted that controlling Group 2 vents is often anything but voluntary. Commenters asserted that facilities control these types of emission streams to satisfy state or Federal regulations, preconstruction permit conditions (such as dispersion modeling or boilerplate requirements), Best Available Control Technology or Lowest Achievable Emission Rate reviews, safety protocols, or internal corporate standards. Commenters emphasized the comprehensive usefulness of the TRE index value, explaining that it accounts for both volumetric flow and net heating value to help identify and prioritize the most significant emission sources. Commenters referenced the 1994 HON preamble, in which the EPA supported the TRE index value concept as an effective method for capturing all relevant factors that influence emission rates.⁷⁵

Commenters also argued that requiring owners and operators to route low-emission, low-heating-value Group 2 streams to an emission control device would produce negligible HAP reductions but would generate carbon monoxide (CO), nitrogen oxides (NO_x), and carbon dioxide (CO₂) and require significant supplemental fuel.

Finally, commenters noted that although the EPA recognized that the cost effectiveness of replacing the TRE index value with a 1.0 lb/hr mass-limit threshold is nearly the same as raising the TRE index value threshold to 5.0 (corresponding to proposed Control Options 1 and 3), the rationale behind selecting Control Option 3 was flawed for the reasons previously outlined. Consequently, commenters urged the EPA not to eliminate the TRE index value concept altogether. Also, some commenters argued that the EPA has the authority to raise the TRE index value threshold to a value that represents cost-effective control for PEPO vents; however, they argued, the EPA's impacts analysis for raising the threshold to a TRE index value of 5.0 overstated emissions reductions and underestimated costs. Other

commenters suggested that the TRE index value threshold should remain at 1.0.

Response: After careful consideration of commenter feedback and technical analysis, the EPA is not finalizing the Agency's proposal to eliminate the TRE index value concept in the PEPO NESHAP for continuous process vents associated with nonepoxide organic HAP from making or modifying product and process vents associated with affected sources that produce PEPO using THF, and the EPA is not removing the 50 ppmv concentration and 0.005 scmm flow rate thresholds that define a "Group 1 continuous process vent." As a result, the EPA also is not adopting the proposed redefinition of a "Group 1 continuous process vent" as any vent emitting greater than or equal to 1.0 lb/hr of total organic HAP. Instead, the final rule retains the TRE index value concept as well as the current definition of a "Group 1 continuous process vent" as a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product and that has: (1) a flow rate greater than or equal to 0.005 scmm, (2) a total organic HAP concentration greater than or equal to 50 ppmv, and (3) a TRE index value less than or equal to 1.0.

In the EPA's proposal to evaluate the potential impacts of eliminating the TRE index value concept from the PEPO NESHAP (as well as the Agency's proposed evaluation of impacts for retaining the TRE index value concept and the 50 ppmv and 0.005 scmm Group 1 process vent thresholds but increasing the TRE index value threshold from 1.0 to 5.0), the EPA relied on data from approximately 50 continuous process vents designated as Group 2, submitted by nine of the 13 HON facilities that responded to the Agency's CAA section 114 information request. At the time, the EPA believed that this dataset served as a reasonable proxy, given the structural and operational similarities between PMPU continuous process vents regulated under the PEPO NESHAP and continuous process vents regulated under the HON. Upon further review and in light of public comments, the EPA now has determined that it is not appropriate to extrapolate impacts for PEPO continuous process vents based on HON data (e.g., for evaluating the elimination of the TRE index value concept in the PEPO NESHAP or for evaluating a change to the TRE index value threshold in the PEPO NESHAP). In other words, the EPA has determined that the Agency's dataset is too limited to finalize this change. While the two

source categories share certain characteristics, there are important distinctions in process design, emission profiles, and control strategies that limit the applicability of HON data to PEPO operations. For example, HON sources tend to operate under more uniform continuous processing conditions (which is what the TRE index value applies to), whereas PEPO Production sources mostly operate in batch processing conditions (and thus most PEPO process vents would not be subject to the continuous process vent standards) and exhibit greater variability in vent characteristics due to differences in product formulations and raw material usage. Although processes using THF to produce PEPO are generally continuous, the EPA is not aware of any facilities currently using THF. Moreover, facilities collected the HON Group 2 process vent data under a specific regulatory context, and that data may not reflect the full range of operating conditions or emission behaviors present in PMPUs. Using this data to model the effects of removing or changing the TRE index value with regard to the PEPO NESHAP could result in misleading conclusions, potentially underestimating or overestimating the environmental and compliance impacts for affected PEPO sources. Given these uncertainties and the lack of PEPO-specific data for continuous vents to support a robust analysis, the EPA has concluded that it would be unreasonable to finalize the proposed changes for continuous vents and revising the TRE index value for PEPO Production sources based on HON-derived information.

b. Fenceline Monitoring

Comment: Commenters supported and opposed the proposed fenceline monitoring requirements for PEPO facilities that use, produce, store, or emit EtO. Commenters in support of fenceline monitoring stated that fenceline monitoring is a development and key practice in the detection and reduction of hard-to-characterize sources of emissions. These commenters also emphasized that they have repeatedly advocated for the application of fenceline monitoring to reduce emissions that impact surrounding communities. Many commenters opposed the use of fenceline monitoring and argued that fenceline monitoring was not a development in practice, process, or control technology and that the EPA exceeded its authority under CAA section 112(d)(6). Commenters argued that LDAR provisions already regulate fugitive emissions, the EPA did not show emissions reductions due to

⁷⁵ 59 FR 19127 (Apr. 22, 1994).

fenceline monitoring in the proposal, and CAA section 112(d)(6) does not authorize the EPA to impose standards to reduce uncertainty in emissions estimates. A commenter also expressed concern with the excessive annual cost of conducting canister sampling of EtO.

Response: In response to public comments and further evaluation, the EPA is not finalizing a fenceline monitoring program for the PEPO Production source category at this time. The EPA disagrees with commenters' assertion that CAA section 112(d)(6) does not authorize the proposed fenceline monitoring work practice standard. However, many commenters raised concerns about the uncertainties and implementation challenges associated with applying fenceline monitoring requirements to PEPO facilities. These concerns suggest that the EPA needs to conduct further analysis before establishing such standards, and the EPA is deferring action until the Agency better understands those issues.

Historically, the EPA has elected to not implement fenceline monitoring for other chemical sector source categories when fugitive emission standards were sufficiently stringent or when the EPA expected other finalized provisions to enhance control or oversight of those emissions.⁷⁶ In the proposal, the EPA acknowledged discrepancies between expected and measured EtO concentrations, based on fenceline monitoring conducted for the Agency's 2022 CAA section 114 request. While the results of this monitoring initially suggested a need for further scrutiny of fugitive emissions, the EPA recognizes that this data was limited to a short period of time at eight PEPO facilities, including only two facilities that did not also have HON sources emitting EtO, and thus might not be representative of their annual emissions, especially considering the episodic nature of batch process emissions associated with PEPO facilities. In this action, the EPA is also finalizing strengthened EtO standards, as outlined in sections IV.B.3.c through IV.B.3.f of this preamble. These updates include improved controls for fugitive emissions from various emission sources such as equipment leaks, storage vessels, wastewater, and heat exchange systems. The EPA expects these enhancements to substantially

reduce fugitive emissions of EtO (and other commingled HAP) from PEPO facilities. In light of these changes, the Agency has determined that it needs further data to assess the overall impact of the revised standards on fugitive emissions across the source category. The EPA notes that the Agency retains the authority under CAA section 112(d)(6) to reevaluate the necessity for fenceline monitoring and associated work practices, once the Agency better understands the impacts of the revised standards.

Finally, the EPA agrees with commenters that the projected annual cost of a fenceline monitoring program for PEPO facilities (nearly \$4.5 million) is not justified without a clearer understanding of the benefits such monitoring would provide. The Agency remains committed to ensuring effective and efficient regulation and will continue to assess the appropriateness of fenceline monitoring as new data become available.

Since the Agency is not finalizing a fenceline monitoring program for the PEPO Production source category, the EPA is not responding to comments related to the details of the proposed fenceline monitoring program. However, summaries of all these comments are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

c. Process Vents and Storage Vessels in EtO Service

Comment: As previously mentioned in this preamble, several commenters requested that the EPA consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of under CAA section 112(f)(2). Commenters broadly urged the EPA to prioritize meaningful reductions in EtO emissions while avoiding excessive compliance costs. More specifically, they called on the EPA to reassess the proposed 1 ppmv threshold used to define "in ethylene oxide service" for process vents emitting EtO, as well as to reassess the proposed 0.1 weight percent threshold applied to storage vessels emitting EtO. One commenter recommended that the EPA allow owners and operators to determine whether a storage vessel qualifies as "in ethylene oxide service" based on its annual average EtO concentration, consistent with the approach used for equipment leaks that emit EtO. A commenter also proposed expanding the alternative method outlined in 40 CFR 63.109(b)(2) (which allows calculation

of EtO concentration when fluid-specific data is available) to include good engineering judgment and process knowledge. Additionally, the commenter requested that owners and operators be permitted to revise a storage vessel's EtO service status by documenting changes in process or raw materials that eliminate EtO service conditions.

Response: The EPA is not finalizing standards under CAA section 112(f)(2) as part of this rulemaking. For more information on this decision, see section IV.A.4 of this preamble. Instead, as requested by commenters, the EPA has reevaluated control options for process vents and storage vessels in EtO service under CAA section 112(d)(6), which requires the EPA to take into account any "developments in practices, processes, or control technologies" and to consider factors such as cost.⁷⁷

Under this framework, the EPA reassessed the proposed EtO-specific standard for process vents and storage vessels. For process vents, the EPA proposed to define "in ethylene oxide service" as any vent within a process that, when uncontrolled, contains a concentration of undiluted EtO at or above 1 ppmv, and when combined, the sum of all these process vents within the process would emit uncontrolled EtO emissions greater than or equal to 5 lb/yr, or 2.27 kg/yr. The EPA proposed that facilities could achieve compliance for process vents "in ethylene oxide service" by reducing EtO emissions by 99.9 percent by weight, controlling the EtO concentration to below 1 ppmv, routing emissions to a flare, or ensuring that total EtO emissions from all vents in the process fall below the 5 lb/yr threshold. For storage vessels, the EPA proposed to define "in ethylene oxide service" for storage vessels to mean that the concentration of EtO in the stored liquid is at least 0.1 percent by weight. The EPA proposed that facilities could achieve compliance for storage vessels "in ethylene oxide service" by reducing EtO emissions by 99.9 percent by weight, controlling the EtO concentration to below 1 ppmv, or routing emissions to a flare.

The EPA considers these compliance options for process vents and storage vessels to represent Control Option 1 under CAA section 112(d)(6), and the Agency finds Control Option 1 feasible for PEPO sources. Commenters indicated that achieving 99.9 percent destruction efficiency is possible using the ECO control technique, and the EPA

⁷⁶ See U.S. EPA, Summary of Public Comments and Responses for the Risk and Technology Review for Ethylene Production, Document ID No. EPA-HQ-OAR-2017-0357-0074 (Mar. 2020); U.S. EPA, Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing, Document ID No. EPA-HQ-OAR-2018-0746-0200 (May 2020).

⁷⁷ See section III.C of the proposal preamble for information on how the Agency conducts technology reviews.

is aware of multiple chemical facilities, including PEPO facilities, already achieving 99.9 percent control efficiency using a thermal oxidizer or other method. For decades, chemical facilities have used flares to control HAP emissions and to handle emissions from a wide variety of emission sources. Because achieving 99.9 percent destruction efficiency can result in very low EtO emissions that are not measurable, thus making the percent destruction efficiency difficult or impossible to quantify, this option includes an alternative 1 ppm standard to demonstrate compliance. Reducing EtO in the streams to 1 ppmv represents the lower end of measurable emissions. However, the EPA understands that changing the process vent definition (to include any gaseous streams “in ethylene oxide service”) will require control of vents that currently are not routed to controls before release to the atmosphere. Retrofitting some of these vents could be difficult, requiring installation of different piping and additional equipment such as gas movers to successfully route low-flow or intermittent streams. While commenters recommended looking at changing the proposed concentration threshold for process vents “in ethylene oxide service,” the EPA finds that concentrations can vary and may not correlate well with overall emissions from the vent stream. From stack testing information submitted in response to the EPA’s CAA section 114 request, the Agency identified two vacuum jet process vents at one unit that have intermittent flows of less than 25 minutes per batch. Assuming batches are completed every 10 hours, the EPA

estimated that these process vents emit 48 lb/yr combined. The EPA additionally assumed that two additional process vents in the PMPU would also be low-flow or intermittent streams, *e.g.*, from certain surge control vessels. Therefore, to avoid technical and implementation challenges associated with capturing very small amounts of EtO emissions from process vents, the EPA identified a second control option, which mirrors the proposed option except that it raises the threshold of “in ethylene oxide service” from 5 lb/yr to 100 lb/yr of combined uncontrolled EtO emissions, and it changes the control option from 5 lb/yr to 100 lb/yr of combined controlled and uncontrolled EtO emissions. Similarly, for storage vessels, the EPA understands that there could be storage vessels storing PEPO products with low levels of unreacted EtO, so Control Option 2 also raises the percent by weight threshold in the definition of “in ethylene oxide service” from 0.1 percent by weight to 1 percent by weight to address this concern.

To assess the impacts of the two control options, the EPA updated the Agency’s proposal analysis. The EPA relied on data from the 2017 National Emissions Inventory (NEI) and identified 11 PEPO facilities with processes that emit EtO from process vents and/or storage vessels. In addition to the NEI, the EPA incorporated information from several other sources, including stack test results submitted in response to the Agency’s CAA section 114 request, full questionnaire responses from each facility, and relevant air permits. The EPA acknowledges that a commenter

recommended applying the percent-by-weight threshold on an annual average basis. However, because the commenter provided no rationale or supporting explanation, the EPA did not include this suggestion in the Agency’s analysis. Additionally, the EPA notes that demonstrating compliance with an annual average would likely require continuous sampling of materials, which could impose significant operational and resource burdens on facilities.

Based on this comprehensive dataset, the EPA estimated that Control Option 1 would affect nine PEPO facilities, while Control Option 2 would impact seven PEPO facilities. For each of these facilities, the EPA calculated the cost of installing a new recuperative thermal oxidizer with 70 percent energy recovery, using the methodology outlined in the EPA Control Cost Manual.⁷⁸ The EPA used a total capital investment estimate of \$1,000,000, a value that commenters provided during the HON rulemaking.⁷⁹ For the final rule, the EPA’s impact analysis was revised to reflect 2024 dollars and an interest rate of 7.5 percent over a 20-year period in the capital recovery factor for thermal oxidizers. See the document titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis.

Table 2 of this preamble presents the nationwide impacts for the two control options considered for the final rule for process vents and storage vessels in EtO service.

TABLE 2—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS CONSIDERED FOR PROCESS VENTS AND STORAGE VESSELS IN ETO SERVICE AT PEPO FACILITIES

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)
1	7,056,000	2,700,000	10.8	250,000
2	5,040,000	1,957,000	10.4	188,200

The EPA finds that Control Option 2 offers meaningful EtO emissions reductions (*i.e.*, over 95 percent of EtO emission reductions projected for Control Option 1 would still be achieved) at a more reasonable cost than Control Option 1 and addresses commenters’ concerns with technical implementation challenges. Importantly, Control Option 2 targets

the larger sources of EtO emissions. Although the EPA’s cost estimates conservatively assume that many facilities would need to install a new thermal oxidizer, the added flexibilities in Control Option 2 may reduce that number, further reducing the compliance burden. By aligning the storage vessel applicability threshold with that finalized for equipment leaks

(*i.e.*, a 1.0 weight percent EtO concentration or greater; see section IV.B.3.d of this preamble), this approach simplifies compliance and the determination of whether storage vessels and associated equipment fall within the scope of “in ethylene oxide service.” Additionally, the cost effectiveness of Control Option 2 is within the range of values associated

⁷⁸ U.S. EPA, 2002. EPA Control Cost Manual (6th ed. Jan. 2002) (EPA/452/B-02-001).

⁷⁹ See 89 FR 42932 (May 16, 2024).

with finalized regulatory options in recent rulemakings regulating EtO emissions, such as the commercial sterilizers NESHAP.⁸⁰ We also note that the cost-effectiveness of Control Option 2 is within the range of historically accepted cost-effectiveness values for highly toxic HAP (such as hexavalent chromium).⁸¹ Therefore, the EPA is finalizing, pursuant to CAA section 112(d)(6), at 40 CFR 63.1423(b) the term “in ethylene oxide service” for process vents to mean each process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted EtO, and when combined, the sum of all these process vents within the process would emit uncontrolled EtO emissions greater than or equal to 100 lb/yr (45.4 kg/yr). The EPA also is updating the definition of “process vent” in the final rule at 40 CFR 63.1423(b) to align with this change. The EPA also is finalizing in the PEPO NESHAP at 40 CFR 63.1423(b) the term “in ethylene oxide service” for storage vessels to mean that the concentration of EtO in the stored liquid is greater than or equal to 1.0 percent by weight. The EPA also is finalizing, as proposed, that the exemption for “vessels and equipment storing and/or handling material that contains no organic HAP, or organic HAP as impurities only” listed in the definition of “storage vessel” at 40 CFR 63.1423(b) does not apply for storage vessels in EtO service.

In addition, the EPA is finalizing, as proposed, the procedures for determining whether process vents and/or storage vessels in EtO service meet the definition of the term “in ethylene oxide service,” by reference to 40 CFR 63.109 for PEPO process vents and storage vessels in EtO service. The EPA is finalizing at 40 CFR 63.1425(g) a requirement that PEPO process vents in EtO service reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by at least 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 100 lb/yr for all combined process vents within the process, or (2) routing emissions through a closed vent system to a flare meeting the flare operating requirements

at 40 CFR 63.1436 that the EPA is finalizing as proposed and as discussed in section IV.C of this preamble. At 40 CFR 63.1432(s)—by reference to the HON (*i.e.*, 40 CFR 63.138(b)(3) and (c)(3)) and accounting for differences between the HON and the PEPO NESHAP—the EPA is finalizing that PEPO storage vessels in EtO service reduce emissions of EtO by either: (1) venting emissions through a closed vent system to a non-flare control device that reduces EtO by at least 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent, or (2) venting emissions through a closed vent system to a flare meeting the flare operating requirements at 40 CFR 63.1436 that the EPA is finalizing, as proposed, and discussed in section IV.C of this preamble. The EPA is also finalizing procedures to determine compliance with these EtO standards at 40 CFR 63.1426(g) (by reference to 40 CFR 63.124 for PEPO process vents in EtO service and accounting for differences between the HON and the PEPO NESHAP) and 40 CFR 63.1432(s)(3) (by reference to 40 CFR 63.124 for PEPO storage vessels in EtO service and accounting for differences between the HON and the PEPO NESHAP).

Notably, the EPA disagrees with the commenters’ requests to allow for good engineering judgment and process knowledge in 40 CFR 63.109(b)(2) to determine whether a storage vessel qualifies as “in ethylene oxide service” or to allow documentation of changes to the process or raw materials to revise the determination. The final definition of “in ethylene oxide service” lets an owner or operator designate emission points based on process knowledge; however, if an owner or operator wants to say an emission point is not in EtO service, they must use the procedures in 40 CFR 63.109. The EPA is allowing good engineering judgment at 40 CFR 63.109(c)(2) (for equipment leaks) and (e) (for heat exchange systems) due to the difficulty and issues with sampling and testing fluid in process lines, particularly if the fluid contains EtO. Additionally, the rule already explicitly allows an owner or operator to calculate the concentration of EtO of the fluid stored in the storage vessels if information specific to the fluid stored, including data based on safety data sheets, is available.

Comment: Some commenters opposed the EPA’s proposal at 40 CFR 63.1427(a) that owners and operators may not use the ECO pollution prevention technique to show compliance with the proposed standard for PEPO process vents in EtO service. Commenters stated that they

routinely use the ECO option to reduce epoxide emissions and that the ECO option provides an efficient and cost-effective means to control epoxide emissions without secondary emissions or the additional energy consumption of a traditional control device.

A commenter stated that regulated entities should have the flexibility to perform ECO or to shorten the batch cycle and install emission control equipment as both options reduce EtO emissions. The commenter disagreed with the EPA’s justification that achieving a 99.9 percent reduction of EtO from an onset of 1 ppmv is not practical using ECO and said that the proposed provision does not require a 99.9 percent reduction of EtO from a 1 ppmv onset. Instead, the commenter expressed that, in order to meet the treatment target for a process vent in EtO service, ECO would only need to achieve either a 99.9 percent reduction of EtO emissions or a concentration of 1 ppmv of EtO in the process vent. Additionally, the commenter argued that the EPA did not support the statement that the use of ECO could lead to high EtO emissions relative to the starting amount of epoxide used.

To support their argument, the commenter provided information on emissions reductions as a result of using ECO as an emissions control technique. The information showed that for two products, ECO can achieve 99.9 percent reductions in EtO emissions based on the commenter’s analysis. In addition, the commenter submitted a more detailed economic analysis as confidential business information to show when ECO is no longer economically feasible.

A different commenter acknowledged that while the economic breakpoint may have changed since the EPA originally promulgated the procedures to determine the onset, they disagree with the EPA’s assertion that ECO is no longer economically viable and noted the conclusion was drawn from a single response to the EPA’s CAA section 114 request. The commenter requested a discussion with the EPA on ways to revise the onset determination in 40 CFR 63.1427(c) while retaining the necessary emissions reductions and economic viability of the ECO option.

Another commenter said that the EPA did not provide adequate explanation to support elimination of the ECO option. They said that facilities should have the option to determine on their own whether use of ECO is economically viable. Additionally, the commenter noted that their facility only uses the ECO option while venting to a control device so that EtO emissions are

⁸⁰In 2024, the EPA finalized multiple EtO emissions standards under CAA section 112(d)(6) for commercial sterilization facilities that had cost-effectiveness estimates of approximately \$2,000,000 per ton of EtO (*see* 89 FR 24090 (Apr. 5, 2024)).

⁸¹For small hard chromium electroplating, the EPA finalized a requirement with a cost effectiveness of \$15,000 per pound (\$30,000,000 per ton) to provide an ample margin of safety (*see* 77 FR 58227–28 and 58239 (Sept. 19, 2012)).

controlled to required limits regardless of the starting amount of epoxide used.

Response: The EPA has reevaluated the use of ECO as a control technique to comply with EtO process vent standards. Although customer specifications for PEPO products increase the economic incentive to continue the reaction until less than 1 ppm EtO remains in the product, post-reaction steps could remove the EtO. Therefore, the traditional determination of economic breakpoint (*i.e.*, comparing the cost of the unreacted EtO to the cost of the reduced productivity of the reactor) is still relevant. The EPA would need more information to update the appropriate starting point of ECO under current economic conditions. Thus, given these uncertainties, the EPA is not finalizing the proposed elimination of ECO as a compliance option for the EtO process vent standards at this time.

d. Equipment Leaks in EtO Service

Comment: As previously mentioned in this preamble, several commenters requested that the EPA consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of under CAA section 112(f)(2). For equipment that emits EtO, to minimize burden, commenters specifically requested that the EPA reduce the proposed monthly connector monitoring frequency and revise the proposed 0.1 weight percent EtO concentration threshold in the definition of equipment “in ethylene oxide service.” Commenters indicated that there are significant logistical challenges to monitor all connectors monthly due to the large number of connectors that require monitoring. Commenters stated that gasket failure is the primary reason for connector leaks and, once repaired, connectors have a low frequency of repeat leaks. In addition, the commenters emphasized that monitoring connectors monthly would be particularly difficult if a facility is shut down for a portion of the month, as all connectors would need to be monitored within a 15-day period. Commenters recommended quarterly connector monitoring and encouraged the EPA to consider annual or semiannual connector monitoring frequencies. Commenters also stated that the EPA did not provide a reasonable justification to define equipment “in ethylene oxide service” at such a low concentration (*i.e.*, 0.1 weight percent EtO) and recommended that the EPA use a higher concentration threshold.

Response: The EPA is not finalizing standards under CAA section 112(f)(2) as part of this rulemaking. For more information on this decision, see section

IV.A.4 of this preamble. Instead, as requested by commenters, the EPA has reevaluated control options for equipment leaks in EtO service under CAA section 112(d)(6), which requires the EPA to take into account any “developments in practices, processes, or control technologies” and to consider factors such as cost.

Under this framework, to assess what standards may be appropriate for equipment that leak EtO, the EPA considered previously reviewed information for existing LDAR programs for the chemical manufacturing industry discussed in the proposal and assessed the comments received during the public comment period. As part of that review, the EPA noted that two rules require control of leak emissions from equipment “in ethylene oxide service.” In the HON and MON rulemakings, the EPA added EtO-specific requirements for equipment in EtO service. These rules’ requirements for equipment “in ethylene oxide service” are more stringent than for equipment in organic HAP service.⁸² Other regulations, permits, and voluntary initiatives have similarly structured LDAR programs (*i.e.*, with a defined monitoring frequency and leak definition) for a variety of chemical manufacturing facilities. For example, some chemical manufacturing area source facilities perform monthly or quarterly monitoring for EtO at leak definitions of 50 ppmv or 100 ppmv.⁸³

Given the EtO-specific requirements in the HON and MON, the similarities in controlling equipment leak emissions across chemical manufacturing facilities, and the issues and recommendations provided by commenters (*i.e.*, commenters expressed that monthly monitoring was especially burdensome for connectors and recommended a reduced frequency, while also urging the EPA to target equipment with higher potential EtO emissions by raising the EtO concentration threshold for the LDAR program), the EPA evaluated six control options under CAA section 112(d)(6) for PEPO equipment that emit EtO for the final rule. The first option is the same control option the EPA proposed for the PEPO NESHAP under CAA section 112(f)(2), which reflects the same EtO

standard for equipment in EtO service subject to the HON. The first option defines equipment “in ethylene oxide service” as containing or contacting a fluid (liquid or gas) that contains at least 0.1 percent by weight EtO. Owners or operators achieve compliance for equipment “in ethylene oxide service” by performing monthly monitoring at a leak definition of 100 ppmv for gas/vapor and light liquid connectors and gas/vapor and light liquid valves and at a leak definition of 500 ppmv for light liquid pumps. The other five control options involve the impact of changing the EtO concentration threshold from 0.1 to 1 percent by weight EtO and changing the monitoring frequencies for connectors (from monthly to quarterly, semiannual, and annual) and for valves (from monthly to quarterly). The light liquid pump monitoring frequencies and leak definitions are the same for all the control options the EPA evaluated. Connectors account for almost 70 percent of all components at a PEPO PMPU; any reduction in their required monitoring frequency would substantially lower the time commitment and costs needed for PEPO facilities to comply with an LDAR standard for equipment leaks that emit EtO emissions.

The six EtO equipment leak control options the EPA evaluated for the final rule are:

- *Control Option 1:* 0.1 percent by weight EtO concentration threshold: monthly monitoring at 100 ppmv for gas/vapor and light liquid connectors and gas/vapor and light liquid valves, monthly monitoring at 500 ppmv for light liquid pumps (the proposed option);
- *Control Option 2:* 1 percent by weight EtO concentration threshold: monthly monitoring at 100 ppmv for gas/vapor and light liquid connectors and gas/vapor and light liquid valves, monthly monitoring at 500 ppmv for light liquid pumps;
- *Control Option 3:* 1 percent by weight EtO concentration threshold: quarterly monitoring at 100 ppmv for gas/vapor and light liquid connectors, monthly monitoring at 100 ppmv for gas/vapor and light liquid valves, monthly monitoring at 500 ppmv for light liquid pumps;
- *Control Option 4:* 1 percent by weight EtO concentration threshold: quarterly monitoring at 100 ppmv for gas/vapor and light liquid connectors and gas/vapor and light liquid valves, monthly monitoring at 500 ppmv for light liquid pumps;
- *Control Option 5:* 1 percent by weight EtO concentration threshold: semiannual monitoring at 100 ppmv for

⁸² 89 FR 42932 (May 16, 2024); 85 FR 49084 (Aug. 12, 2020).

⁸³ Chemical manufacturing area source facility LDAR program details are available in U.S. EPA, *Clean Air Act Section 112(d)(5) GACT Standard Analysis for Equipment Leaks that Emit Ethylene Oxide and Section 112(d)(6) Technology Review for Equipment Leaks from Chemical Manufacturing Process Units at Area Sources Subject to the CMAS NESHAP*, Document ID No. EPA-HQ-OAR-2024-0303-0027, appendix B.

gas/vapor and light liquid connectors, quarterly monitoring at 100 ppmv for gas/vapor and light liquid valves, monthly monitoring at 500 ppmv for light liquid pumps; and

- *Control Option 6*: 1 percent by weight EtO concentration threshold: maintain monitoring frequencies from the current PEPO requirements for non-EtO equipment, 100 ppmv leak definition for gas/vapor and light liquid connectors and gas/vapor and light liquid valves, 500 ppmv leak definition for light liquid pumps.

To assess the impacts of these control options, the EPA relied on data received pursuant to the Agency's CAA section 114 request. The EPA first assessed the impact of increasing the EtO threshold from 0.1 to 1 percent by weight EtO. The EPA does not have sufficient data to fully define the population of equipment between 0.1 and 1 percent by

weight EtO (*i.e.*, EtO concentration data are not available for individual pieces of equipment). However, the EPA approximated this impact based on PEPO PMPU-level EtO concentration data. While a PMPU likely would have a combination of equipment that is above and below a 1 percent by weight EtO threshold, the responses to the EPA's CAA section 114 request only provided data to make this determination at the PEPO PMPU-level. The EPA determined that two PEPO PMPUs have an average EtO concentration less than 1 percent by weight EtO and excluded these PMPUs entirely from the Agency's analyses when assessing the control options that used a threshold of 1 percent by weight EtO (*i.e.*, Control Options 2 through 6). The EPA otherwise applied the same methodology to estimate the costs and

emissions reduction for the final rule as applied for the proposal. For the final rule, the EPA's impact analysis reflects 2024 dollars, and the Agency used an interest rate of 7.5 percent to calculate capital recovery factors. See the document titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking, for details on the assumptions and methodologies the EPA used in this analysis.

Table 3 of this preamble presents the nationwide impacts for the control options considered for the final rule for equipment in EtO service. Table 3 shows the control options ordered from most stringent to least stringent; the incremental cost effectiveness shown for each option is in comparison to the next control option in the table.

TABLE 3—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS CONSIDERED FOR EQUIPMENT IN EtO SERVICE AT PEPO FACILITIES

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)	Incremental EtO cost effectiveness (\$/ton)
1	\$113,000	\$1,740,000	22.1	\$78,900	\$248,000
2	65,400	1,220,000	20.0	60,900	289,000
3	65,400	497,000	17.5	28,300	53,500
4	65,400	235,000	12.6	18,700	38,700
5	65,400	91,800	8.9	10,300	9,680
6	65,400	16,300	1.1	15,100	

While the cost effectiveness values of all the control options are within the range of values associated with finalized regulatory options in recent rulemakings regulating EtO emissions, such as the commercial sterilizers NESHAP,⁸⁴ and are within the range of historically accepted cost-effectiveness values for highly toxic HAP (such as hexavalent chromium),⁸⁵ the EPA is finalizing Control Option 3 in lieu of the other control options evaluated, including Control Option 1 (the proposed option). The EPA is finalizing Control Option 3 to add an EtO-specific LDAR standard in the PEPO NESHAP for equipment in EtO service pursuant to CAA section 112(d)(6) because this option offers meaningful emissions reductions while significantly reducing compliance burdens (*e.g.*, compared to Control Option 1). As illustrated in Table 3 of this preamble, the EPA projects that Control Options 6, 5, 4, and 3 incrementally achieve increased EtO emissions reductions with steadily

increasing annual costs associated with the increased monitoring frequencies. However, between Control Options 3 and 2 (*i.e.*, increasing connector monitoring frequency from quarterly to monthly), there is a significant jump in the annual cost without a similarly significant improvement to EtO emissions reductions. Additionally, Control Option 3 has annual costs 72 percent lower than Control Option 1, but the emission reductions are only 21 percent lower. Industry stakeholders also have emphasized the importance of targeting substantial sources of EtO emissions without imposing unnecessary logistical challenges that are not fully captured in the overall annual costs. For example, commenters pointed to certain maintenance situations that could limit the time available to conduct monthly connector monitoring to only a week or two—a situation that, while infrequent, the EPA is unable to fully account for in its costs analyses. The EPA also recognizes that emissions reductions benefits result from focusing attention and efforts on the equipment with higher potential for large emissions of EtO (*i.e.*, equipment

prior to the polymerization reaction, which would contain process fluids with higher EtO content).

Therefore, pursuant to CAA section 112(d)(6), the EPA is finalizing at 40 CFR 63.1423(b) the term “in ethylene oxide service” for equipment to mean any equipment that contains or contacts a fluid (liquid or gas) that is at least 1.0 percent by weight EtO. In addition, the EPA is finalizing requirements for quarterly monitoring at a leak definition of 100 ppmv for gas/vapor and light liquid connectors in EtO service, monthly monitoring at a leak definition of 100 ppmv for gas/vapor and light liquid valves in EtO service, and monthly monitoring at a leak definition of 500 ppmv for light liquid pumps in EtO service, at 40 CFR 63.1434(a)(3), by reference to the HON and accounting for the differences between the HON and the PEPO NESHAP.

Comment: Several commenters opposed the EPA's proposal to disallow the use of delay of repair for equipment in EtO service. The commenters said that the EPA's proposed elimination of delay of repair will increase emissions of EtO, increase costs, and eliminate

⁸⁴ See 89 FR 24090 (Apr. 5, 2024).

⁸⁵ See 77 FR 58227–28 and 58239 (Sept. 19, 2012).

needed flexibility for facilities to operate in a continuous manner without frequent shutdowns.

Commenters stated that lead times for shutdowns provide adequate time for facilities to order and test components but if the delay of repair provisions are eliminated for equipment in EtO service, the required lead times will result in extended shutdowns. The commenters asserted that while small EtO leaks may be able to be mitigated by off-the-shelf solutions, these cannot be used in every instance and finding an alternative can take more than the proposed 15-day repair window. One commenter stated that taking a tank out of service is a monumental task that is bound by strict process requirements due to safety concerns. The commenter said that requiring expedited shutdowns would pose serious safety hazards for workers due to the volatile nature of EtO.

Commenters stated that if the EPA's intent is to reduce EtO emissions from PEPO facilities, the Agency should continue to allow delay of repair, at least in situations where delaying repair would result in fewer EtO emissions than shutting down. A commenter also noted that the EPA did not quantify any potential emissions reductions associated with delay of repair. The commenter expressed that if the EPA had accounted for the emissions reductions from elimination of the delay of repair provisions, the analysis would show that more frequent shutdown events would lead to emissions of approximately 5 to 340 pounds of EtO per event. The commenter provided an example where a leak repair would have to be delayed for 10 years before emissions exceeded those of a shutdown event.

A commenter recommended that the EPA consider alternatives if the full delay of repair provisions cannot be retained. The commenter proposed that the EPA allow owners or operators to delay repair for no more than five total components in EtO service and not allow repair delay for any component with a leak greater than or equal to 1,000 ppmv. According to the commenter, their proposed alternative would ensure that a minimal number of components would be on delay of repair status at any one time and that none of those components would have large leaks while providing facilities with flexibility needed to avoid unplanned shutdowns.

Response: For equipment in EtO service, the EPA is finalizing repair of leaks as soon as practicable but no later than 15 days after the leak is detected, with delay of repair allowed in limited

circumstances, at 40 CFR 63.1434(a)(3)(iv). To address commenters' concerns that some equipment in EtO service would be difficult to repair without requiring a process shutdown and disrupting production, the EPA is not finalizing the proposed removal of delay of repair allowances for leaking equipment in EtO service. Instead, the EPA is maintaining the delay of repair requirements for equipment in organic HAP service at 40 CFR 63.171 as well as incorporating suggestions from commenters to create additional enforceable guardrails for equipment in EtO service to limit EtO emissions from leaks. These guardrails include restricting the number of components in EtO service that can be put on delay of repair status at a time, requiring continued monitoring of any equipment in EtO service on delay of repair status, and finalizing a leak action level that, if exceeded during the initial or continued monitoring, would no longer allow the repair to be delayed and would instead require repair consistent with the equipment leak requirements (*i.e.*, repaired no later than 15 calendar days after the leak action level is exceeded).

For PEPO production sources, the EPA believes that the additional guardrails in this action for delaying repair of equipment in EtO service would significantly reduce the need for unscheduled shutdowns and continue to ensure achievement of the projected emission reductions from the revised equipment leak standards for equipment in EtO service. First, based on commenter suggestions, the EPA is limiting the number of components in EtO service in a PMPU that can be put on delay of repair to no more than five components at a time. To accommodate PMPUs with more than 5,000 pieces of equipment in EtO service, where the number of components that could be difficult to repair without a shutdown could increase proportionally, the EPA is alternatively allowing delay of repair of no more than 0.1 percent of the components in EtO service (rounded up to the next highest whole number). Second, the EPA is requiring that PEPO sources conduct monthly monitoring for any piece of equipment in EtO service on delay of repair to ensure the leak remains small. Consistent with comments, the EPA is finalizing a leak action level of 1,000 ppm for equipment in EtO service to ensure that owners or operators will quickly fix larger leaks. Owners or operations would need to repair equipment that they find is leaking at or above the 1,000 ppm action level no later than 15 calendar days after

the leak action level is exceeded. This includes monthly monitoring events for equipment on delay of repair. If a leak grows such that a monthly monitoring event reveals that equipment placed on delay of repair is now leaking above the leak action level, the owner or operator of that piece of equipment can no longer delay repair. Instead, the owner or operator will need to fix the leak no later than 15 calendar days after detection of the leak action level exceedance. Lastly, the EPA is allowing PEPO production sources to delay repair of equipment in EtO service if the owner or operator can isolate the equipment from the process such that the equipment does not remain in EtO service, similar to the requirements in 40 CFR 63.171(b). These isolated pieces of equipment would not count toward the five components or 0.1 percent of components calculation nor be subject to the continued monthly leak monitoring or leak action level, since the equipment would no longer have the potential to emit EtO.

Comment: Some commenters opposed the EPA's proposal to disallow skip periods for monitoring equipment in EtO service. One commenter expressed that removing skip periods increases costs for industry without reductions in emissions. The commenter cited the CAA section 114 data and stated that seven out of nine process units in EtO service for which the EPA had data indicated that there were no leaks detected in 2017, and thus, the Agency cannot justify the elimination of skip periods, given low initial leak rates. With respect to connectors specifically, the commenter claimed that they have a lower leak rate than valves and pumps, and that once repaired, there is a low frequency of repeat leaks. The commenter said that it is a waste of resources to monitor the same connectors every month if the facilities have low leak frequencies.

Another commenter suggested that instead of removing skip periods for gas/vapor and light liquid valves in EtO service, the EPA should use an approach similar to 40 CFR part 60, subparts VV, VVa, and VVb (*i.e.*, monitor monthly for two successive months and then monitor the first month of every subsequent quarter until a leak is detected). The commenter said that this approach would allow their facilities to focus resources on valves with leaks greater than 100 ppmv and not have to continue monitoring all valves on a monthly basis. Alternatively, the commenter recommended that owners and operators be allowed to subdivide valves in gas/vapor or light liquid

service into two or three subgroups where, instead of monitoring all valves the first month of every quarter, each subgroup may be monitored in a different month, so long as each subgroup is monitored every three months.

Response: The EPA is finalizing specific monitoring frequencies consistent with its CAA section 112(d)(6) review and is not allowing skip periods for equipment in EtO service. Leaks are often random by nature, and the EPA has determined that consistent monitoring frequencies are necessary to ensure that the LDAR standard maintains the level of stringency evaluated for the technology review. Additionally, because the EPA is not finalizing fenceline monitoring requirements for EtO in this final rule, it is even more critical to ensure by other means that owners or operators control fugitive emissions to the intended level, and skip periods could lead to prolonged emissions from a random leak that owners or operators did not find due to a lack of monitoring. For connectors, as discussed earlier in this section, the EPA has changed monitoring frequency in the final rule to quarterly instead of monthly, as proposed. This change addresses the biggest challenge indicated by commenters and alleviates concerns about the potential impact of removing skip frequencies and requiring monthly connector monitoring. Considering all these factors and the cost effectiveness of the standard, the EPA is not allowing skip periods for equipment in EtO service.

e. Heat Exchange Systems in EtO Service

Comment: As previously mentioned in this preamble, several commenters requested that the EPA consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of under CAA section 112(f)(2). Commenters declared that the proposed requirements for heat exchange systems that emit EtO were above and beyond what is appropriate and necessary to control EtO emissions. Commenters stated that the EPA's proposal to conduct weekly monitoring using the Modified El Paso Method is an undue, repetitive strain on personnel with little environmental benefit. Instead, commenters recommended that the EPA consider either monthly or quarterly monitoring options. Commenters also urged the EPA to consider setting a concentration threshold for EtO above the proposed 0.1 weight percent when determining which heat exchangers qualify as being "in ethylene oxide service." One

commenter suggested that the current monitoring frequency and concentration threshold for PEPO heat exchangers in organic HAP service (*i.e.*, quarterly monitoring, applicable to heat exchangers that contain a process fluid that is at least 5 weight percent organic HAP) are sufficient to control EtO emissions from heat exchangers.

Response: The EPA is not finalizing standards under CAA section 112(f)(2) as part of this rulemaking. For more information on this decision, see section IV.A.4 of this preamble. Instead, as requested by commenters, the EPA has reevaluated control options for heat exchange systems in EtO service under the CAA section 112(d)(6) authority, which requires the EPA to take into account any "developments in practices, processes, or control technologies" and to consider factors such as cost.

Under this framework, to identify and evaluate standards that may be appropriate for heat exchange systems that emit EtO, the EPA considered previously reviewed information from other rulemakings for the chemical manufacturing industry, assessed the public comments, and considered the new requirements for PEPO heat exchange systems in organic HAP service that the EPA is finalizing in this action. The EPA identified use of the Modified El Paso Method to monitor for heat exchange system leaks multiple times, although the specific requirements vary. The EPA assessed two control options for heat exchange systems that emit EtO. To start, as discussed in sections IV.B.1 and IV.B.2 of this preamble, the EPA proposed and are finalizing that heat exchange systems in organic HAP service must use the Modified El Paso Method.⁸⁶

The EPA first reassessed the same control option the Agency proposed for the PEPO NESHAP under CAA section 112(f)(2). At proposal, the EPA identified one rule requiring control of emissions from heat exchange systems "in ethylene oxide service." In the 2024 HON rulemaking, the EPA added EtO-specific requirements for heat exchange systems in EtO service.⁸⁷ There are minimal operational differences between controlling heat exchange system emissions from HON chemical manufacturing process units (CMPUs) and PEPO PMPUs. As such, Control Option 1 reflects the same control option the EPA proposed for the PEPO NESHAP under CAA section 112(f)(2)

⁸⁶ In organic HAP service means the heat exchanger contains a process fluid that is 5 percent or greater by weight organic HAP.

⁸⁷ 89 FR 42932 (May 16, 2024).

and also reflects the exact same EtO standard for heat exchange systems in EtO service subject to the HON. Control Option 1 defines "in ethylene oxide service" for heat exchange systems as any heat exchange system in a process that cools process fluids (liquid or gas) that are 0.1 percent or greater by weight of EtO. Under Control Option 1, compliance for heat exchange systems "in ethylene oxide service" is achieved by conducting weekly monitoring using the Modified El Paso Method and repairing leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater within 15 days from the sampling date, with no delay of repair allowed.

In response to commenters' concerns that the proposed control requirements for heat exchange systems in EtO service may be unnecessarily stringent (particularly in light of the EPA's acknowledgment that the 2017 NEI contained no reported EtO leaks), the Agency also evaluated an alternative approach, Control Option 2. This option mirrors Control Option 1 in regulating heat exchange systems "in ethylene oxide service" but introduces key distinctions that offer greater flexibility. Most notably, in Control Option 2, the EPA raises the percent by weight threshold in the definition of "in ethylene oxide service" from 0.1 percent by weight to 1 percent by weight and require monthly (instead of weekly) monitoring using the Modified El Paso Method. The EPA recognizes that there are benefits to focusing attention and efforts on heat exchange systems that have a higher potential for large leaks of EtO because they service process fluids with higher EtO content; thus, the EPA evaluated a 1 percent by weight threshold to represent the EtO content expected in process fluids (cooled by the heat exchange system) prior to the polymerization reaction. Control Option 2 also requires repairing leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater within 45 days and allows delay of repair in certain circumstances as it encompasses a delay of repair action level of total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv—a level that, if exceeded during leak monitoring, would require immediate repair (*i.e.*, the leak found cannot be put on delay of repair and would be required to be repaired within 30 days of the monitoring event). Given the absence of data on the prevalence and magnitude of EtO leaks from heat exchange systems in EtO service at

PEPO sources, the EPA agrees with commenters that increasing the frequency of monitoring (e.g., going from monthly monitoring in Control Option 2 to weekly monitoring in Control Option 1) might not yield meaningful emissions reductions and that any additional modeled reductions appear to be minimal. Further, in evaluating Control Option 2, the EPA recognizes that less frequent monitoring could alleviate burdens on LDAR technicians and that providing flexibility to delay repairs may help facilities avoid unnecessary process shutdowns.

To assess the impacts of the two control options, the EPA assumed that the provisions would affect all 20 PEPO facilities with processes that use and emit EtO. As part of the EPA's analysis, the Agency assumed that owners or

operators conducting monitoring for three or more heat exchange systems would elect to purchase a stripping column and flame ionization detector analyzer and perform in-house Modified El Paso Method monitoring, because the total annualized costs for in-house Modified El Paso Method monitoring are less than the costs for contracted services. In addition, the EPA assumed that owners or operators could repair leaks by plugging a specific heat exchanger tube, and if a heat exchanger is leaking to the extent that it needs replacing, then it is effectively at the end of its useful life. Therefore, the EPA determined that the cost of replacing a heat exchanger is an operational cost that the owner or operator would incur as a result of routine maintenance and equipment replacement and not attributable to the control option. For

the final rule, the EPA's impact analysis reflects 2024 dollars. The EPA also used an interest rate of 7.5 percent over a 5-year period in the capital recovery factor for the useful life of a quality assurance plan and/or Modified El Paso Method monitoring system (depending on whether the monitoring is contracted out or performed in-house). See the document titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis.

Table 4 of this preamble presents the nationwide impacts for the two control options considered for the final rule for heat exchange systems in EtO service.

TABLE 4—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS CONSIDERED FOR HEAT EXCHANGE SYSTEMS IN ETO SERVICE AT PEPO FACILITIES

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)
1 (weekly)	200,200	326,000	11.3	29,000
2 (monthly)	200,200	73,000	11.1	6,600

Although Control Option 1 could be considered to be cost effective, there is uncertainty in the prevalence of heat exchange system leaks and commenters have identified potential disruptions associated with requiring operations and lab staff to conduct monitoring activities every week and to repair potentially complex equipment without allowances for delays. The EPA is finalizing Control Option 2 to add EtO standards in the PEPO NESHAP for heat exchange systems in EtO service pursuant to CAA section 112(d)(6) because it is lower cost and provides similar reductions to Option 1. However, the EPA observes that the conclusion that it is necessary under CAA section 112(d)(6) to require Option 2 based on the estimated costs and reductions is uncertain. For example, our analysis did not consider leak data from smaller heat exchangers such as those used in the PEPO source category. Accordingly, we intend to reconsider this control option to allow for a more complete understanding of these sources and their EtO emissions. The EPA's intent to reconsider will also allow us to ensure full consideration of similar provisions currently being reconsidered in the HON, a related chemical sector NESHAP frequently cross-referenced by the PEPO NESHAP. Pursuant to CAA section 112(d)(6), the

EPA is finalizing at 40 CFR 63.1423(b) the term “in ethylene oxide service” for heat exchange systems to mean any heat exchange system in a process that cools process fluids (liquid or gas) that are 1.0 percent or greater by weight of EtO. In addition, the EPA is finalizing monthly monitoring for leaks for heat exchange systems in EtO service using the Modified El Paso Method at 40 CFR 63.1435(a), which references the HON (i.e., 40 CFR 63.104(g)(6)) and accounts for differences between the HON and the PEPO NESHAP. If the owner or operator finds a leak, the EPA is requiring repair of the leak to reduce the concentration or mass emissions rate below the applicable leak action level as soon as practicable but no later than 45 days after collecting the sample, with delay of repair allowed based on a delay of repair action level of total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv—a level that, if exceeded during leak monitoring, would require immediate repair (i.e., the leak found cannot be put on delay of repair and would be required to be repaired within 30 days of the monitoring event).⁸⁸

⁸⁸ See 40 CFR 63.1435(a), which references the HON (i.e., 40 CFR 63.104(h)(6)) and accounts for differences between the HON and the PEPO NESHAP.

f. Wastewater in EtO Service

Comment: As previously discussed in this preamble, several commenters requested that the EPA consider evaluating EtO-specific standards under CAA section 112(d)(6) instead of under CAA section 112(f)(2). For wastewater that emits EtO, commenters suggested that the standard should focus on streams with higher concentrations and higher overall amounts of EtO. Commenters strongly opposed the EPA's proposed EtO concentration threshold of 1 ppmw in the definition of wastewater streams “in ethylene oxide service” and stated that there would be significant costs to control streams at this low concentration with minimal impact on emission reductions. Commenters further contended that the EPA should account for the total mass of EtO present in wastewater streams. They suggested that regulating only those streams exceeding a specific mass threshold could achieve substantial emission reductions while limiting the number of streams requiring control.

Response: The EPA is not finalizing standards under CAA section 112(f)(2) as part of this rulemaking. For more information on this decision, see section IV.A.4 of this preamble. Instead, as requested by commenters, the EPA has reevaluated control options for wastewater in EtO service under the

CAA section 112(d)(6) authority, which requires the Agency to take into account any “developments in practices, processes, or control technologies” and to consider factors such as cost.

Under this framework, to assess what standards may be appropriate for wastewater emitting EtO, the EPA considered previously reviewed information for wastewater controls from other rulemakings and considered the public comments. As part of that review, the EPA noted one rule requiring control of emissions from wastewater “in ethylene oxide service.” In the HON rulemaking, the EPA added EtO-specific requirements for wastewater in EtO service; the requirements for wastewater “in ethylene oxide service” are more stringent than for wastewater in organic HAP service.⁸⁹

Given the EtO-specific requirements in the HON, the minimal operational differences between controlling emissions from HON CMPUs and PEPO PMPUs, and the issues and recommendations provided by commenters (*i.e.*, focus on streams with higher EtO concentrations and higher overall amounts of EtO), the EPA evaluated two control options under CAA section 112(d)(6) for PEPO wastewater that emit EtO for the final rule. The first option is the same control option the EPA proposed for the PEPO NESHAP under CAA section 112(f)(2), which reflects the same EtO standard for wastewater in EtO service subject to the HON. This option defines “in ethylene oxide service” for wastewater as any wastewater stream that contains total annual average concentration of EtO greater than or equal to 1 ppmw at any flow rate, and a wastewater stream in EtO service is considered a Group 1 wastewater stream. Under Control Option 1, facilities achieve compliance for wastewater “in ethylene oxide service” by reducing, by removal or destruction, the concentration of EtO to a level less than 1 ppmw.

In response to commenter feedback urging the EPA to target wastewater streams with higher EtO concentrations and total EtO amounts, the Agency evaluated Control Option 2 for the final rule. This option mirrors Control Option 1 in regulating wastewater “in ethylene oxide service” but introduces key distinctions that offer greater flexibility. Most notably, in Control Option 2, the EPA raises the EtO concentration threshold that triggers control requirements from 1 ppmw to 10 ppmw, based on commenters’ suggestions that the Agency consider raising the

threshold and consider wastewater control requirements similar to those in 40 CFR part 61, subpart FF, which has a threshold of 10 ppmw (for benzene, the pollutant regulated in subpart FF). This means that only wastewater streams with EtO concentrations at or above 10 ppmw would be subject to control under Control Option 2, whereas Control Option 1 applies to streams with concentrations as low as 1 ppmw. The data from the CAA section 114 request show that PEPO wastewater streams reported with EtO concentrations below 10 ppmw contribute a small amount (less than 0.1 percent) to the overall wastewater EtO load and EtO emissions. This provision distinguishes Control Option 2 from Control Option 1 by prioritizing regulatory focus on streams with higher EtO concentrations and total emissions, where control measures are likely to be more effective at achieving emissions reductions. In response to commenter feedback urging the EPA to consider a total source EtO mass flow rate threshold in the final rule (*e.g.*, commenters recommended alignment with standards like 40 CFR part 61, subpart FF, that contain a total source mass flow rate threshold), Control Option 2 also introduces an exemption for wastewater streams in EtO service that is not part of Control Option 1. Specifically, Control Option 2 includes an exemption for wastewater streams in EtO service that cumulatively contain less than 1 megagram (approximately 1.1 tons) of EtO per year, thus excluding low-volume streams from control requirements.

Additionally, the EPA understands that the proposed compliance option (*i.e.*, reduce the concentration of EtO of each wastewater stream, by removal or destruction, to a level less than 1 ppmw), could be difficult to achieve for streams with a high EtO load. Therefore, the EPA is expanding the compliance pathways to allow facilities to choose between using three different performance standards for treatment processes, including reducing the concentration of EtO of each wastewater stream, by removal or destruction, to a level less than 1 ppmw, or complying with the Group 1 wastewater stream requirements outlined in 40 CFR 63.138(d) or (e). Per 40 CFR 63.138(d), the owner or operator must operate and maintain a steam stripper that meets certain design requirements. Per 40 CFR 63.138(e), the owner or operator must reduce, by removal or destruction, the mass flow rate of EtO by at least 98 percent. Although EtO is biodegradable, its low biodegradability factor indicates

that conventional biological treatment alone would only reduce its concentration by about half.⁹⁰ Therefore, additional treatment, such as steam stripping, is necessary to reliably remove the remaining EtO from the wastewater. With any of these compliance options, the EPA expects that facilities would use steam stripping to control the wastewater streams, but facilities would have more flexibility in demonstrating compliance. Regardless of the compliance option an owner or operator chooses, they still must comply with the applicable control device requirements in 40 CFR 63.139 and 40 CFR 63.145(i) and (j) when venting gases from the treatment process, as well as the applicable leak inspection provisions in 40 CFR 63.148.

To assess the impacts of the two control options, the EPA used information for 24 PEPO wastewater streams (each containing a total annual average concentration of EtO greater than or equal to 1 ppmw) that four PEPO facilities that received the CAA section 114 request provided to the EPA. Using this comprehensive dataset, the EPA estimated that both control options would affect five PEPO facilities (*i.e.*, all four PEPO facilities that received the CAA section 114 request plus one additional PEPO facility). Importantly, for the final rule, the EPA implemented procedures for addressing ambiguity in certain reported EtO concentrations by interpreting reported values (from the CAA section 114 request) that contained a “less than” symbol for values reported as “<1,000” and “<100” as one order of magnitude lower than stated. For instance, if a respondent reported a value as “<1,000,” the EPA’s approach for the final rule assumed the actual value to be “100.” The EPA’s underlying rationale for this approach is that if the respondent had intended to indicate a value below 100, they would have explicitly reported it as “<100” rather than using the broader “<1,000” threshold. This method ultimately provides a conservative estimate of impacts that accounts for ambiguity in the data.

The EPA calculated the cost of installing a steam stripper using the cost algorithm for wastewater steam stripper requirements, used for the development of the HON, for each of the five PEPO facilities that the Agency determined

⁹⁰ EtO has a fraction emitted (Fe) factor of 0.5. The Fe is the mass fraction of a HAP emitted from the wastewater collection and downstream biological treatment system. Fe is an indicator of the fraction of a compound expected to be an air emission out of wastewater in typical chemical sector collection and treatment systems.

⁸⁹ 89 FR 42932 (May 16, 2024).

the two control options would impact.⁹¹ For the final rule, the impact analysis reflects 2024 dollars. The EPA also uses an interest rate of 7.5 percent over a 20-year period in the capital recovery factor for steam strippers. See the document

titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking, for details on the

assumptions and methodologies the EPA used in this analysis. Table 5 of this preamble presents the nationwide impacts for the two control options considered for the final rule for wastewater in EtO service.

TABLE 5—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS CONSIDERED FOR WASTEWATER IN ET0 SERVICE AT PEPO FACILITIES

Control option	Total capital investment (\$)	Total annualized costs (\$/yr)	EtO emission reductions (tpy)	EtO cost effectiveness (\$/ton)
1	14,100,000	5,500,000	38.2	144,000
2	13,600,000	5,200,000	37.2	140,000

While the cost effectiveness values of both control options are within the range of values associated with finalized regulatory options in recent rulemakings regulating EtO emissions, such as the commercial sterilizers NESHAP,⁹² and are within the range of historically accepted cost-effectiveness values for highly toxic HAP (such as hexavalent chromium ⁹³), the EPA is finalizing Control Option 2 in lieu of Control Option 1. The EPA is finalizing Control Option 2 to add EtO standards in the PEPO NESHAP for wastewater in EtO service pursuant to CAA section 112(d)(6) because this option offers meaningful emissions reductions while significantly reducing compliance burdens, compared to Control Option 1. Commenters have emphasized the importance of targeting substantial sources of EtO emissions without imposing unnecessary complexity on facilities managing smaller sources. The EPA recognizes that requiring control of minor EtO sources can introduce implementation challenges, which the EPA has mitigated by refining the definition of “in ethylene oxide service.”

For wastewater “in ethylene oxide service,” the EPA’s data indicate that the revised criteria (*i.e.*, Control Option 2) would exclude at least 30 percent of the wastewater streams in EtO service that the proposed rule (*i.e.*, Control Option 1) would have affected. The EPA’s analysis indicates that a small subset of wastewater streams accounts for the majority of EtO emissions at most PEPO facilities. In contrast, low-flow, low-concentration, or intermittent streams contribute minimally to EtO emissions at most PEPO facilities and are often subject to significant variability, making consistent control

both technically challenging and potentially inefficient. Overall, the EPA believes Control Option 2 strikes a balance between meaningful emissions reductions and practical implementation, making it a sound choice despite having a similar cost to Control Option 1. Therefore, pursuant to CAA section 112(d)(6) the EPA is finalizing at 40 CFR 63.1423(b) the term “in ethylene oxide service” for wastewater to mean any wastewater stream that contains total annual average concentration of EtO greater than or equal to 10 ppmw at any flow rate. The EPA is also updating the definition of “wastewater” in the final rule at 40 CFR 63.1423(b) to align with this change. In addition, the EPA is finalizing, as proposed, the procedures for determining whether a wastewater stream is in EtO service within the definition of the term “in ethylene oxide service” by reference to 40 CFR 63.109 for PEPO wastewater streams in EtO service. The EPA also is finalizing at 40 CFR 63.1433(s)(23) a requirement—by reference to the HON and accounting for differences between the HON and the PEPO NESHAP—that owners and operators must reduce the concentration of EtO of each wastewater stream, by removal or destruction, to a level less than 1 ppmw, or comply with the Group 1 wastewater stream control requirements outlined in 40 CFR 63.138(d) or (e). Additionally, the EPA is finalizing an exemption to this requirement at 40 CFR 63(s)(23)(iii)(D) for wastewater streams in EtO service that cumulatively contain less than 1 megagram (approximately 1.1 tons) of EtO per year, where the owner or operator annually samples the exempted wastewater streams to verify that they are below this threshold. The EPA also is finalizing language at 40 CFR

63.1433(s)(23) to clarify that if an owner or operator elects to either reduce the EtO concentration in each wastewater stream to below 1 ppmw or achieve at least a 98 percent reduction in EtO mass flow rate, they must conduct a performance test to demonstrate compliance instead of a design evaluation. Alternatively, if the owner or operator chooses to operate and maintain a steam stripper that meets the design specifications outlined in 40 CFR 63.138(d), the EPA is not requiring a performance test or design evaluation.

4. What is the rationale for our final approach and final decisions for the technology review?

The EPA’s technology review focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the EPA promulgated the previous technology review for the PEPO NESHAP.⁹⁴ Specifically, the EPA focused the technology review on all existing MACT standards for the various emission sources in the PEPO Production source category, including heat exchange systems, storage vessels, process vents, wastewater, and equipment leaks in organic HAP service. In the proposal, the EPA identified cost-effective developments for PEPO heat exchange systems, storage vessels, process vents, and equipment leaks, and the Agency proposed revising the standards for these four emissions sources under the technology review. The EPA did not identify developments in practices, processes, or control technologies for wastewater in organic HAP service. For managing fugitive emissions, the EPA also proposed a fence-line monitoring work practice standard under the technology review. Further information regarding the

⁹¹ U.S. EPA, *Hazardous Air Pollutant Emissions from Process Units in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards*, vol. 1C: Model

Emission Sources (Nov. 1992) (EPA–453/D–92–016c).

⁹² See 89 FR 24090 (Apr. 5, 2024).

⁹³ See 77 FR 58227–28 and 58239 (Sept. 19, 2012).

⁹⁴ See 59 FR 17340 (Mar. 27, 2014).

technology review is in the proposed rule and in the supporting materials in the rulemaking docket.

During the public comment period, the EPA received several comments on the Agency's proposed determinations for the technology review. The comments and the EPA's specific responses and rationale for the Agency's final decisions are in section IV.B.3 of this preamble and in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

No information presented by commenters has led the EPA to change the Agency's proposed determination under CAA section 112(d)(6) for batch process vents, equipment leaks, and wastewater in organic HAP service. For batch process vents in organic HAP service (those associated with the use of a nonepoxide organic HAP to make or modify the product), the EPA is finalizing the determination that revising the PEPO NESHAP control threshold from 26,014 lb/yr to 10,000 lb/yr and removing the associated flow rate applicability thresholds is a cost-effective development under CAA section 112(d)(6). For equipment leaks in organic HAP service, the EPA is finalizing the Agency's determination that using a leak definition of 100 ppmv for valves that are in either gas/vapor service or light liquid service is a cost-effective development under CAA section 112(d)(6). For wastewater in organic HAP service, the EPA is finalizing the Agency's determination that no changes to the standard are warranted.

However, based on comments received on the proposed revisions for heat exchange systems and storage vessels in organic HAP service, the EPA is making two minor clarifications: (1) owners and operators do not have to monitor their regulated heat exchange systems using water sampling methods or a surrogate indicator if the heat exchange system is monitored for leaks using the Modified El Paso Method, and (2) the Agency is allowing more time for owners and operators to install upgraded deck fittings and controls for guidepoles for all storage vessels equipped with an IFR. Additionally, based on comments received on the proposed revisions for continuous process vents in organic HAP service, the EPA is retaining use of the TRE index value concept and the current definition of a "Group 1 continuous process vent." This definition refers to a process vent from a continuous unit

operation that is associated with the use of a nonepoxide organic HAP to make or modify the product and that has: (1) a flow rate greater than or equal to 0.005 scmm, (2) a total organic HAP concentration greater than or equal to 50 ppmv, and (3) a TRE index value less than or equal to 1.0. Also, based on comments received on the proposed fenceline monitoring requirements, the final rule excludes all elements of the proposed fenceline monitoring requirements.

Finally, the EPA has broadened its technology review beyond the scope of PEPO emission sources in organic HAP service. This expanded review now evaluates developments in practices, processes, and control technologies for PEPO sources that specifically emit EtO. This approach responds to public comments urging the Agency to evaluate EtO-specific standards under CAA section 112(d)(6) rather than under CAA section 112(f)(2). Consequently, the Agency is addressing EtO emissions from PEPO production sources under its authority provided by CAA section 112(d)(6). Based on comments received, the EPA is finalizing requirements under CAA section 112(d)(6), as described in sections IV.B.3.c through IV.B.3.f of this preamble, for EtO-emitting sources that require further control of EtO emissions beyond what is required by the organic HAP standards.

C. Amendments Pursuant to CAA Section 112(d)(2) and (3) and 112(h) for the PEPO Production Source Category

1. What did we propose pursuant to CAA section 112(d)(2) and (3) and 112(h) for the PEPO Production source category?

Under CAA section 112(d)(2) and (3), the EPA proposed to amend the operating and monitoring requirements for flares used to reduce emissions from PEPO production processes. The EPA proposed to directly apply the petroleum refinery flare rule requirements in 40 CFR part 63, subpart CC, to PEPO flares with clarifications, including, but not limited to, specifying that several definitions in 40 CFR part 63 subpart CC that apply to petroleum refinery flares also apply to PEPO flares and specifying additional requirements when an owner or operator uses a gas chromatograph or mass spectrometer for compositional analysis. Specifically, the EPA proposed to retain the General Provisions requirements of 40 CFR 63.11(b) such that PEPO flares operate pilot flame systems continuously and that these flares operate with no visible emissions (except for periods not to exceed a total of five minutes during

any two consecutive hours) when the flare vent gas flow rate is below the smokeless capacity of the flare. The EPA also proposed to consolidate measures related to flare tip velocity and new operational and monitoring requirements related to the combustion zone gas for PEPO flares. Further, in keeping with the elimination of the startup, shutdown, and malfunction exemption, the EPA proposed a work practice standard related to the visible emissions limits during periods when a PEPO flare is operated above its smokeless capacity (e.g., periods of emergency flaring). The EPA proposed eliminating the cross-references to the General Provisions and instead specifying all operational and monitoring requirements that apply to PEPO flares in the applicable subparts.

In addition, the EPA proposed provisions and clarifications in the PEPO NESHAP for bypass lines on closed vent systems, and the Agency proposed adding work practice standards for certain activities where alternatives are appropriate to ensure that CAA section 112 standards apply continuously, consistent with *Sierra Club v. EPA*.

For bypass lines on closed vent systems, the EPA proposed that an owner or operator may not bypass the APCD at any time, that a bypass is a violation, and that the owner or operator must estimate, maintain records, and report the quantity of organic HAP released.

Under CAA section 112(h), the EPA proposed a work practice standard for maintenance vents and equipment openings requiring that, prior to opening process equipment to the atmosphere, the owner or operator of that equipment must: (1) drain and purge the equipment to a closed system so that the concentration of the vapor in the equipment served by the maintenance vent is less than or equal to 10 percent of the lower explosive limit (LEL); (2) open and vent the equipment to the atmosphere only if the 10 percent LEL cannot be demonstrated and the pressure is less than or equal to 5 pounds per square inch gauge (psig), provided no active purging of the equipment occurs to the atmosphere until the LEL criterion is met; (3) open the equipment when it would emit less than 50 lbs of VOC to the atmosphere; or (4) for installing or removing an equipment blind, depressurize the equipment to 2 psig or less and maintain pressure of the equipment where purge gas enters the equipment at or below 2 psig during the blind flange installation, provided that the owner or

operator cannot meet the other proposed work practice standards.

Also under CAA section 112(h), the EPA proposed a work practice standard for storage vessel degassing to allow owners or operators to vent storage vessels to the atmosphere once a storage vessel degassing concentration threshold is met (*i.e.*, once the vapor space concentration is less than 10 percent of the LEL) and the owner or operator has removed all standing liquid from the vessel to the extent practicable. The EPA also proposed an organic HAP concentration cutoff of 5,000 ppmv (measured as methane) as an equivalent alternative to reducing the vapor space concentration to less than 10 percent of the LEL. In addition, the EPA proposed that owners or operators may open a floating roof storage vessel prior to degassing to set up equipment (*i.e.*, make connections to a temporary control device), but owners or operators must use this approach in a limited manner and not actively purge the storage vessel while making connections. Finally, the EPA proposed to prohibit owners and operators from filling the storage vessel during these periods (such that the vessel would emit HAP to the atmosphere for a limited amount of time due to breathing losses only).

To clarify the standards applying to pressure vessels, the EPA proposed to define pressure vessel to mean “a storage vessel that is used to store liquids or gases and is designed not to vent to the atmosphere as a result of compression of the vapor headspace in the pressure vessel during filling of the pressure vessel to its design capacity” and to remove the exemption for “pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere” from the definition of storage vessel. The EPA proposed requiring no detectable emissions at all times (*i.e.*, each point on the pressure vessel where total organic HAP could potentially be emitted must have an instrument reading less than 500 ppmv); initial and annual monitoring using EPA Method 21 of 40 CFR part 60, appendix A–7; and routing organic HAP through a closed vent system to a control device (*i.e.*, no releases to the atmosphere through any points on the pressure vessel). The EPA also proposed requiring owners or operators to control gaseous emission streams from surge control vessels and bottoms receivers—if considered process vents as defined in 40 CFR 63.1423—to reduce organic HAP in accordance with the applicable process vent control standards outlined in 40 CFR 63.1425 through 63.1431. In

addition, the EPA proposed that owners and operators of PEPO transfer racks that load materials with an MTVP greater than or equal to 0.5 pounds per square inch absolute (psia) (3.45 kPa) under actual storage conditions (*i.e.*, Group 1 transfer racks as defined in 40 CFR 63.1423(b)) must comply with the HON requirements at 40 CFR 63.126 through 63.130, if the material contains organic HAP as defined by 40 CFR 63.1423(b). The EPA proposed that the requirements to use a vapor balance system or reduce emissions by 90 percent during loading operations (at a transfer rack) are consistent with CAA section 112(d) controls and reflect the MACT floor for transfer racks at existing PEPO sources. The EPA also proposed that the transfer rack requirements in the HON (*i.e.*, to reduce emissions by 98 percent by weight or to an exit concentration of 20 ppmv during loading operations at a transfer rack) are consistent with CAA section 112(d) controls and reflect the MACT floor for transfer racks at new PEPO sources and beyond-the-floor control for transfer racks at existing PEPO sources. In addition, the EPA proposed the addition of butylene oxide to the definition of “epoxide” in 40 CFR 63.1423(b) and to the list of HAP presented in Table 4 to the PEPO NESHAP, and the EPA proposed to remove the 40 CFR 63.1420(d)(3) exemption for certain processes currently excluded from the affected source (*i.e.*, unregulated steps in the PEPO production process which may include but are not limited to solvent removal, purification, drying, and solids handling operations). The EPA proposed that all these requirements are consistent with CAA section 112(d) or 112(h) and reflect the MACT floor, and except for PEPO transfer racks, the EPA did not identify any additional options beyond these (*i.e.*, beyond-the-floor options) for controlling emissions from these emission sources. For existing PEPO transfer racks, the EPA did propose a beyond-the-floor option. More information concerning the EPA’s proposed requirements under CAA section 112(d)(2) and (3) and 112(h) is in section IV.D of the proposal preamble.

2. How did the revisions pursuant to CAA section 112(d)(2) and (3) and 112(h) change since proposal?

Except for two minor revisions based on comment, the EPA is finalizing, as proposed, all the amendments described in section IV.C.1 of this preamble. In response to a commenter’s request, the EPA is incorporating operational and monitoring requirements for pressure-

assisted multi-point flares into the final rule. The EPA is also revising the Agency’s proposal based on comment to include overlap provisions in the PEPO NESHAP (for owners and operators currently complying with the MON) related to the removal of the 40 CFR 63.1420(d)(3) exemption for certain processes currently excluded from the affected source.

3. What key comments did we receive on the proposed revisions pursuant to CAA section 112(d)(2) and (3) and 112(h), and what are our responses?

This section provides summaries of and responses to the key comments received regarding the EPA’s proposed emission standards for transfer operations and the Agency’s proposal to remove the 40 CFR 63.1420(d)(3) exemption for certain processes currently excluded from the affected source. Other comment summaries and the EPA’s responses for issues raised regarding the proposed revisions for flares, bypass lines on closed vent systems, maintenance vents and equipment openings, storage vessel degassing, planned routine maintenance of storage vessels, pressure vessels, surge control vessels and bottoms receivers, and the addition of butylene oxide to the rule are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

a. Transfer Racks

Comment: A commenter argued that the EPA did not adhere to CAA section 112(d)(2) because the EPA did not indicate that it considered costs in determining that a beyond-the-floor standard of 98 percent by weight control or an outlet concentration of 20 ppmv was appropriate for transfer racks at PEPO sources. The commenter stated that the EPA must provide a reasonable explanation of how the Agency determined that the additional costs of going from 90 percent control to 98 percent control are warranted or refrain from finalizing beyond-the-floor standards for transfer racks at existing PEPO sources.

Response: The EPA is not changing the final rule as a result of this comment. The EPA disagrees with the commenter that the Agency did not indicate that the EPA considered costs in determining that a beyond-the-floor standard of 98 percent by weight control or an outlet concentration of 20 ppmv was appropriate for transfer racks at PEPO sources. In the EPA’s proposal,

the Agency provided a reasonable explanation of how the Agency determined that no impacts would occur from the shift from 90 percent control to 98 percent control (*i.e.*, materials loaded through transfer racks at PEPO Production sources have low vapor pressures of less than 0.3 psia based on CAA section 114 data and do not meet the vapor pressure applicability criteria). Notably, commenters did not provide any additional cost information or provide any additional information for the EPA to consider in revising its analysis. As the EPA pointed out in the proposal, achieving a 98 percent control efficiency for transfer racks is a well-established practice under existing chemical sector regulations (*e.g.*, the HON), and the PEPO NESHAP consistently references the HON for various emission standards. Although specific data for PEPO-related transfer racks is limited, the widespread implementation of the 98 percent control standard at comparable sources—and even within the same facility when co-located with a HON source—demonstrates its practicality and appropriateness. Additionally, as stated in the EPA's proposal, the standards in Louisiana, Texas, and the HON include vapor balancing as a compliance option, which is a proven, inexpensive, and straightforward control method.

b. 40 CFR 63.1420(d)(3) Exemption

Comment: A commenter stated that there are instances where the PEPO NESHAP ceases to apply and another 40 CFR part 63 NESHAP becomes applicable, and therefore it is unnecessary for facilities already complying with a different 40 CFR part 63 NESHAP to change compliance to the PEPO NESHAP. The commenter discussed an example where some solvent removal, purification, drying, and solids handling steps associated with a PMPU at a facility are subject to and already complying with other subparts of 40 CFR part 63, for example the MON. The commenter requested that the EPA either maintain the current definition of “affected source” or allow operations that are currently complying with another subpart of 40 CFR part 63 the option to continue to comply with these other part 63 regulations. In addition, the commenter contended that changing the applicable MACT standard involves a substantial amount of time and effort, including, but not limited to, (1) completing an applicability assessment for PEPO MACT, (2) preparing and submitting additional reports such as the Notification of Compliance Status and periodic reports,

(3) revising title V operating permits to reflect that a new MACT standard is applicable to the affected source, and (4) updating compliance tracking processes at the site accordingly. Similarly, another commenter argued that the EPA should exempt facilities that have already implemented MON requirements and/or that conduct testing for applicability of MON requirements.

Response: The EPA agrees with the commenters that the EPA should not require owners and operators already subject to and complying with the MON (for reactions or processing that occur after completion of epoxide polymerization and all catalyst removal steps) to transition to the PEPO NESHAP. Allowing continued compliance with the MON is a reasonable and practical approach that avoids unnecessary regulatory burden, considering that the regulatory text previously excluded these processes from the definition of affected source. Therefore, although the EPA is finalizing the proposal to remove the exemption at 40 CFR 63.1420(d)(3), the Agency is revising the PEPO NESHAP at 40 CFR 63.1420(d)(4) to allow owners and operators to comply with the MON for reactions or processing (that emit organic HAP) that occur after completion of epoxide polymerization and all catalyst removal steps if they are currently complying with the MON.⁹⁵ Commenters did not identify any other specific part 63 regulation, aside from the MON, with which PEPO facilities currently comply to demonstrate control of organic HAP emissions from post-polymerization reactions or processing after catalyst removal. Thus, the EPA is limiting the finalized overlap provisions at 40 CFR 63.1420(d)(4) to the MON.

4. What is the rationale for our final approach and final decisions for the revisions pursuant to CAA section 112(d)(2) and (3)?

The EPA evaluated the comments on the EPA's proposed amendments to revisions for flares used as APCDs, bypass lines on closed vent systems, maintenance vents and equipment openings, storage vessel degassing, planned routine maintenance of storage vessels, pressure vessels, surge control vessels and bottoms receivers, and the addition of butylene oxide. For the reasons explained in section III.D of the proposal preamble, the EPA finds that the flare amendments are necessary to

⁹⁵ The EPA notes that this allowance is for sources already determined to be MON sources and, therefore, has no bearing on the MACT floor determination specific to the PEPO Production source category.

ensure that flares used as APCDs achieve the required level of MACT control and meet 98 percent destruction efficiency at all times as well as to ensure that CAA section 112 standards apply at all times. Similarly, the requirements for bypass lines on closed vent systems, maintenance vents and equipment openings, storage vessel degassing, and planned routine maintenance of storage vessels are necessary for consistency with the requirement in *Sierra Club v. EPA* that CAA section 112 standards apply at all times. Also, the requirements for pressure vessels, surge control vessels and bottoms receivers, transfer racks, and certain reactions or processing that occur after completion of epoxide polymerization and all catalyst removal steps are appropriate standards for these emissions points, and the addition of butylene oxide to the rule is reasonable to correct the omission in table 4 of the subpart in the original NESHAP.

Therefore, the EPA is finalizing the proposed provisions for flares (including the addition of monitoring and operating requirements for pressure-assisted multi-point flares), finalizing standards for bypass lines on closed vent systems, maintenance vents and equipment openings, storage vessel degassing, planned routine maintenance of storage vessels, pressure vessels, surge control vessels and bottoms receivers, transfer racks, and certain reactions or processing that occur after completion of epoxide polymerization and all catalyst removal steps, and finalizing the addition of butylene oxide to the rule. More information and rationale concerning all the amendments the EPA is finalizing pursuant to CAA section 112(d)(2) and (3) and 112(h) are in the preamble to the proposed rule, in section IV.C.3 of this preamble, and in the comments and the Agency's specific responses to the comments in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

D. Other Amendments to the PEPO NESHAP

1. What other amendments did we propose for the PEPO Production source category?

As discussed in section I.C.2 of this preamble, the 2014 petition for reconsideration requested that the EPA: (1) remove the affirmative defense provisions from the rules; (2) provide adequate opportunity to comment on

the requirements associated with emissions from PRDs; (3) redo the risk assessment using updated emission factors; (4) set additional monitoring requirements for flares to reduce flaring emissions; (5) set fenceline monitoring requirements; (6) reconsider its decision not to set standards that account for developments in LDAR; and (7) use existing regulatory authority to strengthen chemical facility safety and prevent accidents. In response to the petition for reconsideration, the EPA evaluated each of the seven issues raised in the petition and proposed targeted actions accordingly. First, for issue (1), the EPA deferred to a separate rulemaking to address removal of affirmative defense in the PEPO NESHAP.⁹⁶ Next, to address issue (2) raised in the petition for reconsideration, as outlined in section I.C.2 of this preamble, the EPA proposed soliciting public comment on the PRD requirements specified in 40 CFR 63.1434(c), which were finalized in the 2014 rule.⁹⁷ Petitioners contended that the EPA had not given them a sufficient opportunity to comment on the provisions related to PRD emissions. However, the EPA noted in the proposal that Petitioners' argument regarding the EPA's justification for allowing PEPO facilities a three-year compliance period is no longer applicable, as all affected sources (*i.e.*, both new and existing) have now been subject to the PRD requirements since March 27, 2017. To address issues (3) through (6) raised in the petition for reconsideration, as outlined in section I.C.2 of this preamble, the EPA proposed that the Agency's actions in this rulemaking would address issues (3), (4), (5), and (6) in the normal course of review of the PEPO NESHAP in accordance with CAA section 112. Finally, the EPA also proposed that issue (7), to use existing regulatory authority to strengthen chemical facility safety and prevent accidents in accordance with the U.S. Chemical Safety and Hazard Investigation Board and Executive Order 13650, is outside the scope of CAA section 112(f)(2) and 112(d)(6).

The EPA also proposed a requirement that owners or operators submit electronic copies of certain required performance test reports, flare management plans, and periodic reports through the EPA's CDX using the CEDRI. Additionally, the EPA proposed two narrow circumstances in which owners or operators may seek extensions to the deadline if they are prevented from reporting by conditions

outside of their control within five business days of the reporting deadline. The EPA proposed that an extension may be appropriate due to outages of the EPA's CDX or CEDRI that preclude an owner or operator from accessing the system and submitting required reports. The EPA also proposed that an extension may be appropriate due to a force majeure event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

In addition, the EPA proposed ongoing performance tests (every five years) for owners and operators using a combustion, recovery, or recapture device to comply with an epoxide or organic HAP percent reduction efficiency requirement in 40 CFR 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2); an epoxide concentration limitation in 40 CFR 63.1425(b)(1)(ii) or (b)(2)(iii); or an annual epoxide emission limitation in 40 CFR 63.1425(b)(1)(iii) or (b)(2)(iv).

The EPA also proposed to eliminate the option in 40 CFR 63.1427(a)(2)(ii) that exempts owners or operators using ECO as a control technique from a requirement to directly measure the concentration of unreacted epoxide when determining the batch cycle percent epoxide emission reduction; instead, the EPA proposed that owners and operators conduct the comparison of epoxide concentration using direct measurement for one product from each product class, even if uncontrolled epoxide emissions before the end of the ECO are less than 10 tpy.

The EPA proposed to refer to 40 CFR part 63, subpart F, in 40 CFR 63.1423(a) for instances where a definition in the PEPO NESHAP points to either 40 CFR part 63, subpart G or H. The EPA also proposed a new definition of "heat exchange system" at 40 CFR 63.1423(b) as well as reference clarifications to properly reference the correct HON citation for "continuous recorder," "maximum true vapor pressure," "residual," and "waste management unit." In addition, the EPA proposed a definition of "in organic HAP service" to include a heat exchange system, to be consistent with the use of "in organic HAP service" in the definition of "heat exchange system."

The EPA proposed adding monitoring requirements for owners or operators using adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite. The EPA also proposed that owners or operators of this type of APCD use dual (two or more) adsorbent beds in series and conduct monitoring of HAP or TOC on the outlet of the first adsorber bed in

series using a sample port and a portable analyzer or chromatographic analysis.

Additionally, the EPA proposed that for the PEPO Production source category, the inclusion of 1-BP as an organic HAP would not have any effect on the MACT standards in the PEPO NESHAP. Finally, the EPA proposed revisions to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. Section IV.E.7 of the proposal preamble discusses these editorial corrections and clarifications.

2. How did the other amendments for the PEPO Production source category change since proposal?

Regarding the issues raised in the May 2014 petition for reconsideration, as discussed in sections I.C.2 and IV.D.1 of this preamble, the EPA previously stated its intent to publish a **Federal Register** notice in response.⁹⁸ This final action serves as that notice and formally addresses all remaining issues raised in the reconsideration petition for the 2014 final rule. As a result, the EPA considers all these issues resolved.

First, for issue (1), since proposal, the EPA has finalized a separate rulemaking addressing removal of affirmative defense in the PEPO NESHAP, so the EPA considers this issue to be fully resolved.⁹⁹ The EPA received no comments on the proposed actions related to issues (2), (4), and (7), and we consider these three issues resolved.

Importantly, the EPA acknowledges that we initially proposed that the second residual risk review for the PEPO Production source category addressed issue (3). Although the EPA is no longer finalizing any part of that proposed second residual risk review, the Agency determines in this final rulemaking that no further action is necessary to resolve issue (3). On May 1, 2013, environmental groups filed a lawsuit against the EPA, alleging that the Agency had failed to review and, if necessary, revise emissions factors at least once every three years as required in CAA section 130.¹⁰⁰ In the complaint,

⁹⁸ The petitioners requested that the EPA: (1) remove the affirmative defense provisions from the rules; (2) provide adequate opportunity to comment on the requirements associated with emissions from PRDs; (3) redo the risk assessment using updated emission factors; (4) set additional monitoring requirements for flares to reduce flaring emissions; (5) set fenceline monitoring requirements; (6) reconsider its decision not to set standards that account for developments in LDAR; and (7) use existing regulatory authority to strengthen chemical facility safety and prevent accidents. See section I.C.2 of this preamble for more details.

⁹⁹ See 90 FR 42323 (Sept. 2, 2025).

¹⁰⁰ *Air Alliance Houston, et al. v. McCarthy*, No. 1:13-cv-00621-KBJ (D.D.C.).

⁹⁶ See 89 FR 52425 (June 24, 2024).

⁹⁷ See 79 FR 17340 (Mar. 27, 2014).

the Plaintiffs sought to compel the EPA to expeditiously complete a review of the VOC emissions factors for industrial flares, liquid storage tanks, and wastewater collection, treatment and storage systems, and, if necessary, revise these factors. In 2015, the EPA finalized new or revised factors for NO_x, CO, and VOC for flares but did not revise factors for wastewater or tanks. The EPA has determined that none of the revisions to the emission factors are centrally relevant or bear on the HAP emissions estimates and associated findings for the residual risk review finalized in 2014 for the PEPO Production source category.¹⁰¹ The final rule addressing the risk review for the PEPO Production source category used the best available data to conduct the review. The updated emissions factors would not have led the EPA to revise the HAP emissions data used in the risk assessment because the data does not specify the estimation method used (and generally, facilities would not use these emissions factors to estimate flare HAP emissions).¹⁰² Additionally, no emissions data from PEPO flares was used to revise the emission factors.

With respect to issue (5), the EPA proposed fenceline monitoring requirements for the PEPO Production source category in the 2024 proposal. After soliciting and considering public comments on fenceline monitoring, the EPA concludes in this final rulemaking that it is not necessary to set a fenceline monitoring standard for the PEPO Production source category at this time, thus concluding the reconsideration of issue (5). See section IV.B.3.b of this preamble for the EPA's response to key comments on fenceline monitoring. Similarly, with respect to issue (6), the EPA proposed changes to the equipment leaks standards in the 2024 proposal. After soliciting and considering public comments on these equipment leaks standards, the EPA is finalizing changes to the equipment leaks standards for the PEPO Production source category, thus concluding the reconsideration of issue (6). See section IV.B.3.d of this preamble and the document titled *Summary of Public Comments and Responses for*

National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry for the EPA's response to comments on equipment leaks standards.

Beyond addressing the issues raised in the petition for reconsideration, the EPA is finalizing, as proposed, all the amendments described in section IV.D.1 of this preamble with no changes based on comment except minor clarifying edits to the spreadsheet reporting template for the periodic report. The final version of the template will be on the CEDRI website. The EPA also is revising the proposal in response to public comments to limit the number of product classes requiring direct measurement. This change reflects the removal of the exemption in 40 CFR 63.1427(a)(2)(ii), which previously allowed owners or operators using ECO as a control technique to avoid directly measuring unreacted epoxide concentrations when calculating batch cycle percent epoxide emission reduction.

3. What key comments did we receive on the other amendments for the PEPO Production source category, and what are our responses?

This section provides summaries of and responses to the key comments received regarding the EPA's proposal to eliminate the option in 40 CFR 63.1427(a)(2)(ii) that exempts owners or operators using ECO as a control technique from a direct measurement requirement. The EPA did not receive many substantive comments on the other amendments discussed in this section IV.D of this preamble. The comments the EPA received regarding other amendments generally include issues related to electronic reporting, ongoing performance testing, adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite, and revisions that the Agency proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. The comments and the EPA's specific responses to these issues are in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

Comment: Some commenters opposed the EPA's proposal to remove the option in 40 CFR 63.1427(a)(2)(ii) that exempts owners or operators using ECO as a control technique from a requirement to confirm epoxide emissions reductions with direct measurements if uncontrolled epoxide emissions were

less than 10 tpy. One commenter noted that the EPA did not provide any documentation justifying the change and, thus, the Agency has not provided commenters with an opportunity to comment on the EPA's reasoning. The commenters expressed that obtaining direct measurement of unreacted epoxide in process liquids can expose operators to potentially hazardous conditions including not only the presence of unreacted epoxides but also elevated temperatures and pressures. Similarly, one commenter noted that vapor phase oxide analysis is complex, expensive, can result in safety issues, and is difficult due to the short duration of venting during batches. Additionally, the commenters expressed that some process units may produce hundreds of different products over the course of a year and requiring direct measurement for each product places an unnecessary burden on facilities. The commenters requested that the EPA allow the use of bench-scale or pilot-scale test data or historical data in addition to direct measurement. Alternatively, the commenters suggested that the EPA could require sampling for one or two representative "worst-case" product classes for direct measurement and comparison to calculated epoxide concentrations.

Response: Similar to performance tests, requiring direct measurement to verify modeled emissions reductions is an important compliance assurance measure to ensure that the emission standards are met and enforceable (*i.e.*, that ECO is achieving the required epoxide reduction, including for those with uncontrolled epoxide emissions below 10 tpy). The commenters did not explain how pilot-scale or bench-scale test data could be a sufficient substitute for direct measurement of actual operations or how scaling up these test data would affect the accuracy of the measurements. However, the EPA recognizes that direct measurement may be difficult when a PMPU may produce hundreds of products. To alleviate the burden associated with direct measurement when a PMPU is producing a wide variety of products, the EPA is finalizing an alternative for those with uncontrolled epoxide emissions below 10 tpy to limit the required direct measurement to a few representative products. Specifically, for products with the same capping epoxide (*i.e.*, the last epoxide into the reactor before the end of the epoxide feed), owners or operators can verify the estimation method with direct measurement of three products representing the lowest, average, and

¹⁰¹ 59 FR 17340 (Mar. 27, 2014).

¹⁰² For example, the Texas Commission on Environmental Quality's guidance for developing VOC (and subsequently, organic HAP) emissions inventories for flares states that "Emissions calculations for these contaminants are based on the flared gas flow rate and composition, and the appropriate destruction efficiency, which depends upon the actual flare operation." Additionally, it states, "Do not use the total hydrocarbon or VOC emission factors from AP-42, Section 13.5, to estimate emissions." See <https://www.tceq.texas.gov/downloads/air-quality/point-source/guidance/rg-360-20-appendix-a.pdf>.

highest estimated emissions at the end of the ECO. If the difference between the directly determined epoxide concentration and the calculated epoxide concentration is less than 25 percent for each product, then the selected estimation method is an acceptable alternative to direct measurement for all products produced in the reactor with the same capping epoxide. The capping epoxide is relevant because the amount of unreacted epoxide can vary considerably depending on reaction kinetics, and in general, propylene oxide reacts an order of magnitude slower than ethylene oxide at a given catalyst level, temperature, and pressure.¹⁰³ This approach is similar to an instrument calibration curve and allows owners and operators to verify that their estimation methodology works over the entire range of expected emissions for the PMPU. Verifying the estimation methodology over the range of expected conditions provides relief from having to conduct hundreds of measurements while maintaining an acceptable level of assurance of compliance with the emission standard.

4. What is the rationale for our final approach and final decisions regarding the other amendments for the PEPO Production source category?

Based on the comments received on these other amendments, the EPA is generally finalizing all proposed requirements. In a few instances, the EPA received comments that led to additional minor editorial corrections and technical clarifications in the final rule. The EPA's rationale for these corrections and technical clarifications is in section IV.D.3 of this preamble and in the document titled *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production Industry*, which is in the docket for this rulemaking.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

During the public comment period for the proposed rule, the EPA determined that two of the originally identified 25 facilities that the EPA considered in the proposal are no longer subject to the PEPO NESHAP, reducing the total to 23 facilities subject to the PEPO NESHAP. The list of these 23 facilities is in the document titled *List of Facilities Subject*

to the PEPO NESHAP, for Final Rule, which is in the docket for this action.

B. What are the air quality impacts?

The changes in projected air quality impacts since proposal result from the change in the number of facilities that the EPA estimates are subject to the PEPO NESHAP (see section IV.A of this preamble), the EPA's decision to not finalize the proposal to remove the TRE index value concept for continuous process vents in organic HAP service, the EPA's decision to not finalize the proposed fence line monitoring requirements, and the EPA's reevaluations related to EtO-specific standards covering process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in EtO service under CAA section 112(d)(6) instead of section 112(f)(2), based on comments received (see section IV.B.3 of this preamble). The EPA estimates HAP and VOC emission reductions of approximately 97 and 130 tpy, respectively. The EPA projects that the EtO emission standards will reduce EtO emissions from PEPO processes by approximately 12 tpy (based on reported emissions inventories). More information about the estimated emission reductions and secondary impacts of this final action for the PEPO NESHAP is in the documents titled *Economic Impact Analysis and Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which are in the docket for this rulemaking.

C. What are the cost impacts?

This final action will cumulatively cost (in 2024 dollars) approximately \$27.9 million in total capital costs and \$9.81 million per year in total annualized costs (including product recovery), based on the EPA's analysis of the final action described in sections III and IV of this preamble.¹⁰⁴ ¹⁰⁵ Besides the change to the number of facilities that the EPA estimates are subject to the PEPO NESHAP (see section IV.A of this preamble) and the Agency's revisions to reflect 2024 dollars and a 7.5 percent

interest rate, the changes in projected cost impacts since proposal result from the EPA's (1) decision to not finalize proposal to remove the TRE index value concept for continuous process vents in organic HAP service, (2) decision to not finalize the proposed fence line monitoring requirements, and (3) reevaluations related to EtO-specific standards covering process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in EtO service under CAA section 112(d)(6) instead of section 112(f)(2), based on comments received (see section IV.B.3 of this preamble). More information about the estimated cost of this final action for the PEPO NESHAP is in the document titled *Updated Impact Calculations and Technology Review for the PEPO Production Source Category—Final Rule*, which is in the docket for this rulemaking.

D. What are the economic impacts?

The EPA conducted an Economic Impacts Analysis (EIA) for this final action as documented in a document titled *Economic Impact Analysis*, which is in the docket for this action. The EPA estimates the present value (PV) of the estimated costs of this final rule, discounted at a 3 percent rate over the 2026 to 2045 period, at \$136 million with an estimated equivalent annualized value (EAV) of \$9.16 million without product recovery. With product recovery, the EPA estimates the PV at \$135 million with an estimated EAV of \$9.10 million. At a 7 percent discount rate, the PV of the final rule is \$108 million and the EAV is \$10.2 million without product recovery. With product recovery, the PV and EAV at a 7 percent discount rate are \$107 and \$10.1 million, respectively. The overall difference caused by product recovery is relatively minor, reflecting approximately a 0.72 and 0.67 percent decrease in cost estimates under 3 and 7 percent discount rates, respectively.

The EPA calculated the economic impacts on small entities as the percentage of total annualized costs incurred by affected ultimate parent owners to their revenues. This ratio provides a measure of the direct economic impact to ultimate parent owners of PEPO facilities while presuming no impact on consumers. The EPA estimates that the only small business impacted by the final action will incur total annualized costs of about 0.92 percent of its revenue both with and without product recovery. The Regulatory Flexibility Act (RFA) section later in this preamble and the EIA for this final rulemaking provide more explanation of these economic impacts.

¹⁰³ U.S. EPA (1997). Polyether Polyols Production: Basis and Purpose Document for Proposed Standards.

¹⁰⁴ Regarding product recovery, the LDAR control options for equipment leaks and heat exchange systems can help facilities prevent the loss of valuable process fluids by detecting leaks sooner. The EPA monetizes this benefit as recovery credits by multiplying VOC emissions reductions by a VOC credit of \$900 per ton. The EPA uses this recovery credit to represent the variety of chemicals used as reactants and produced at organic chemical manufacturing facilities.

¹⁰⁵ The annualized costs for the final rule include the costs of compliance, including those for monitoring, recordkeeping, and reporting. The EPA presents recordkeeping and reporting costs for the final rule separately in section VI.C of this preamble.

E. What are the benefits?

The EPA expects the emissions controls that this rule requires to reduce HAP emissions. HAP are airborne pollutants that can cause, or may cause, serious health effects. The EPA estimates that the amendments to the PEPO NESHAP, excluding the EtO emission standards and the new flare requirements, will reduce HAP emissions from PEPO sources by approximately 97 tpy. The EPA projects that the EtO emission standards will reduce EtO emissions from PEPO processes by approximately 12 tpy. The EPA also estimates that the amendments to the NESHAP will reduce excess emissions of HAP from flares in the PEPO Production source category by an additional 12 tpy.

Quantifying and monetizing the economic value of reducing the risk of cancer and noncancer effects is difficult due to the lack of a central estimate of cancer and noncancer risk and the lack of estimates of the value of an avoided case of cancer (fatal and nonfatal) and morbidity effects. Due to methodology and data limitations, the EPA did not attempt to monetize the health benefits of reductions in HAP emissions in this analysis.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders is available at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action, and the EPA therefore did not submit this action to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The EPA submitted the information collection activities in this rule to OMB for approval under the PRA. OMB has assigned EPA ICR number 1811.14 to the information collection request (ICR) document that the EPA prepared. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The EPA is finalizing amendments to the PEPO NESHAP to add new monitoring and operational requirements for flares; add work practice standards for maintenance vents and equipment openings, storage vessel degassing, and planned routine maintenance of storage vessels; clarify regulatory provisions for vent control bypasses; add new monitoring requirements for PEPO pressure vessels; add new emission standards for PEPO surge control vessels and bottoms receivers; and add new emission standards for PEPO transfer racks. The EPA is also finalizing control requirements for EtO emissions from process vents, storage vessels, equipment leaks, heat exchange systems, and wastewater in EtO service. In addition, the EPA is finalizing amendments to the PEPO NESHAP to add requirements for electronic reporting of performance test reports, flare management plans, and periodic reports and to make other minor clarifications and corrections. The EPA will collect this reporting information to ensure compliance with the PEPO NESHAP.

Respondents/affected entities:

Owners or operators of PEPO production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart PPP).

Estimated number of respondents: 23 (includes two new respondents over the next three years).

Frequency of response: Initially, semiannually, and annually.

Total estimated burden: 8,930 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Average annual cost is \$5,610,000 (per year), which includes \$4,620,000 annualized capital or operation & 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 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. The one small entity subject to the requirements of this

action is a small business. The Agency has determined that this small business may incur total annualized costs representing 0.9 percent of its revenue. Details of this analysis are presented in the document titled *Economic Impact Analysis*, which is in the docket for this action.

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) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The EPA estimates that costs involved in this action will not exceed \$187 million in 2024 dollars (\$100 million in 1995 dollars adjusted for inflation using the GDP implicit price deflator) or more in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175. None of the facilities that the EPA has identified as being affected by this action are owned or operated by Tribal governments or located within Tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866.

However, the EPA's *Policy on Children's Health* applies to this action. The EPA did not conduct a new analysis of children's environmental health for this final action. For details on children's health, please see the discussion in the proposal preamble. The EPA notes that this action finalizes

standards that are projected to reduce EtO emissions. Because EtO is a mutagenic HAP, emission reductions finalized in this action will be particularly beneficial to children.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. As discussed in the proposal preamble, the EPA conducted searches for the PEPO NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). The EPA also conducted a review of voluntary consensus standards (VCS) organizations and accessed and searched their databases. The EPA conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3B, 4, 18, 21, 22, and 25A of 40 CFR part 60, appendix A, and EPA Methods 301 and 320 of 40 CFR part 63, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. The EPA reviewed all potential standards to determine the practicality of the VCS for this rulemaking. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS. The EPA did not identify any applicable VCS for EPA Methods 1A, 2A, 2D, 2F, 2G, 21, and 22.

The EPA incorporates by reference the following two VCS: ANSI/ASME PTC 19.10–1981—Part 10, “Flue and Exhaust Gas Analyses” as an acceptable alternative to EPA Method 3B (manual portion only) and ASTM D6420–18, “Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry” as an acceptable alternative to EPA Method

18. Although identified as VCS, the EPA is not incorporating by reference ASTM D6348–12, “Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy” as an acceptable alternative to EPA Method 320 because the EPA is not finalizing the proposal to eliminate the TRE index value concept in the PEPO NESHAP (which would have required use of EPA Method 320).

ANSI/ASME PTC 19.10–1981—Part 10, “Flue and Exhaust Gas Analyses” quantitatively determines the gaseous constituents of exhausts including oxygen, CO₂, CO, nitrogen, SO₂, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons. This 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 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; telephone number: 1–800–843–5990; and email address: customercare@asme.org. See <https://www.ansi.org> and <https://www.asme.org>. The standard is available to everyone at a cost determined by ANSI/ASME (\$88). ANSI/ASME also offer memberships or subscriptions for reduced costs. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available.

ASTM D6420–18, “Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry” uses a direct interface gas chromatograph/mass spectrometer to measure 36 VOC and provide an on-site analysis of extracted, unconditioned, and unsaturated (at the instrument) gas samples from stationary sources. In this action, the EPA is finalizing ASTM D6420–18 as an alternative to EPA Method 18 with the following caveats:

- Affected sources must know the target compounds, and ASTM D6420–18 lists them as measurable;
- Affected sources cannot use ASTM D6420–18 for methane and ethane because the atomic mass is less than 35; and
- Affected sources cannot use ASTM D6420–18 as a total VOC method.

ASTM D6420–18 is available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See <https://www.astm.org/>. This standard is

available to everyone at a cost determined by the ASTM (\$63). The ASTM also offers memberships or subscriptions that allow unlimited access to their methods. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available to stakeholders.

While the EPA identified 11 other VCS as being potentially applicable, the Agency decided not to use them because these methods are impractical as alternatives due to the lack of equivalency, documentation, and validation data and other important technical and policy considerations. The EPA has documented these search and review results in the memorandum *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Polyether Polyols Production Industry Residual Risk and Technology Review*.¹⁰⁶

The EPA is finalizing amendments to 40 CFR part 63, subpart A, to address incorporations by reference. The EPA is amending 40 CFR 63.14 to reflect the ANSI and ASTM methods incorporated by reference. Under subpart A—General Provisions, a source may apply to the EPA for permission 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.¹⁰⁷

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

¹⁰⁶ Document ID No. EPA–HQ–OAR–2023–0282–0043.

¹⁰⁷ 40 CFR 63.7(f) and 40 CFR 63.8(f).

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Amend § 63.14 by revising paragraphs (f)(1) and (i)(96) to read as follows:

§ 63.14 Incorporations by reference.

(f) * * *

(1) ANSI/ASME PTC 19.10—1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981; §§ 63.116(c) and (h); 63.128(a); 63.145(i); 63.309(k); 63.365(b); 63.457(k); 63.490(g); 63.772(e) and (h); 63.865(b); 63.997(e); 63.1282(d) and (g); 63.1426(c); 63.1450(a), (b), (d), (e), (f), and (g); 63.1625(b); table 5 to subpart EEEE; §§ 63.3166(a); 63.3360(e); 63.3545(a); 63.3555(a); 63.4166(a); 63.4362(a); 63.4766(a); 63.4965(a); 63.5160(d); table 4 to subpart UUUU; tables 5 and 17 to subpart XXXX; table 3 to subpart YYYY; table 5 to subpart AAAAA; § 63.7322(b); table 5 to subpart DDDDD; §§ 63.7822(b); 63.7824(e); 63.7825(b); 63.8000(d); table 4 to subpart JJJJ; table 4 to subpart KKKKK; §§ 63.9307(c); 63.9323(a); 63.9621(b) and (c); table 4 to subpart SSSSS; tables 4 and 5 of subpart UUUUU; table 1 to subpart ZZZZZ; §§ 63.11148(e); 63.11155(e); 63.11162(f); 63.11163(g); table 4 to subpart JJJJJ; §§ 63.11410(j); 63.11551(c); 63.11646(a); 63.11945(d).

(i) * * *

(96) ASTM D6420—18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, approved November 1, 2018, IBR approved for §§ 63.101(b); 63.115(g); 63.116(c); 63.126(d); 63.128(a); 63.139(c); 63.145(d) and (i); 63.150(g); 63.180(d); 63.305(c); 63.482(b); 63.485(t); 63.488(b); 63.490(c) and (e); 63.496(b); 63.500(c); 63.501(a); 63.502(j); 63.503(a) and (g); 63.525(a) and (e); 63.987(b); 63.997(e); 63.1423(b); 63.1426(c); 63.2354(b); table 5 to subpart EEEE; §§ 63.2450(j); 63.8000(d).

■ 2a. Effective April 28, 2026, amend § 63.14 by revising paragraph (f)(1) to read as follows:

(f) * * *

(1) ANSI/ASME PTC 19.10—1981, Flue and Exhaust Gas Analyses [Part 10,

Instruments and Apparatus], issued August 31, 1981; §§ 63.116(c) and (h); 63.128(a); 63.145(i); 63.309(k); 63.365(b); 63.457(k); 63.490(g); 63.772(e) and (h); 63.865(b); 63.997(e); 63.1282(d) and (g); 63.1426(c); 63.1450(a), (b), (d), (e), (f), and (g); 63.1625(b); table 5 to subpart EEEE; §§ 63.3166(a); 63.3360(e); 63.3545(a); 63.3555(a); 63.4166(a); 63.4362(a); 63.4766(a); 63.4965(a); 63.5160(d); table 4 to subpart UUUU; tables 5 and 17 to subpart XXXX; table 3 to subpart YYYY; table 5 to subpart AAAAA; § 63.7322(b); table 5 to subpart DDDDD; §§ 63.7822(b); 63.7824(e); 63.7825(b); 63.8000(d); table 4 to subpart JJJJ; table 4 to subpart KKKKK; §§ 63.9307(c); 63.9323(a); 63.9621(b) and (c); table 4 to subpart SSSSS; table 5 of subpart UUUUU; table 1 to subpart ZZZZZ; §§ 63.11148(e); 63.11155(e); 63.11162(f); 63.11163(g); table 4 to subpart JJJJJ; §§ 63.11410(j); 63.11551(c); 63.11646(a); 63.11945(d).

* * * * *

Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

■ 3. Amend § 63.506 by revising paragraph (e)(6)(ii) and adding paragraph (e)(6)(iii) to read as follows:

§ 63.506 General recordkeeping and reporting provisions.

(e) * * *

(6) * * *

(ii) If none of the compliance exceptions in paragraphs (e)(6)(iii) through (ix) or (xiii) of this section occurred during the 6-month period, the Periodic Report required by paragraph (e)(6)(i) of this section shall be a statement that there were no compliance exceptions as described in this paragraph for the 6-month period covered by that report and that none of the activities specified in paragraphs (e)(6)(iii) through (ix) or (xiii) of this section occurred during the 6-month period covered by that report.

(iii) For an owner or operator of an affected source complying with the provisions of §§ 63.484 through 63.501 for any emission point, Periodic Reports shall include:

(A) All information specified in § 63.122(a)(4) for storage vessels, § 63.117(a)(3) and 63.118(f) and 63.485(s)(5) for continuous front-end process vents, § 63.492 for batch front-end process vents and aggregate batch vent streams, § 63.499 for back-end process operations, § 63.104(f)(2) for heat exchange systems, and § 63.146(c) through (g) for process wastewater.

(B) The daily average values or batch cycle daily average values of monitored parameters for all excursions, as defined in § 63.505(g) and (h). For excursions caused by lack of monitoring data, the start date and time and duration (in hours) of periods when monitoring data were not collected shall be specified.

(C) For each affected source as described in § 63.480, beginning no later than the compliance dates specified in § 63.481(n), for each excursion that is not an excused excursion, the report must include the date of the excursion, a list of the affected sources or equipment, an estimate of the quantity in pounds of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the cause of the excursion (including unknown cause, if applicable), as applicable, and the corrective action taken.

(D) The information in paragraphs (e)(6)(iii)(D)(1) through (5) of this section, as applicable:

(1) Any supplements to the Emissions Averaging Plan, as required in paragraph (e)(4)(iii) of this section;

(2) Notification if a process change is made such that the group status of any emission point changes from Group 2 to Group 1. The owner or operator is not required to submit a notification of a process change if that process change caused the group status of an emission point to change from Group 1 to Group 2. However, until the owner or operator notifies the Administrator that the group status of an emission point has changed from Group 1 to Group 2, the owner or operator is required to continue to comply with the Group 1 requirements for that emission point. This notification may be submitted at any time.

(3) Notification if one or more emission points (other than equipment leaks) or one or more EPPU is added to an affected source. The owner or operator shall submit the information contained in paragraphs (e)(6)(iii)(D)(3)(i) through (ii) of this section.

(i) A description of the addition to the affected source; and

(ii) Notification of the group status of the additional emission point or all emission points in the EPPU.

(4) Notification if a standard operating procedure, as defined in § 63.500(a)(2), is changed and the change has the potential for increasing the concentration of carbon disulfide in the crumb dryer exhaust. This notification shall also include a summary of the test results of the carbon disulfide concentration resulting from the new standard operating procedure. The results of the performance test must be

submitted according to paragraph (i) of this section by the date the Periodic Report is submitted.

(5) For process wastewater streams sent for treatment pursuant to § 63.132(g), reports of changes in the identity of the treatment facility or transferee.

(E) The start date, start time, duration in hours, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.483(a), including actions taken to correct a malfunction.

* * * * *

Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

■ 4. Amend § 63.1420 by revising paragraph (d)(3), adding paragraph (d)(4), and revising paragraph (e)(3) introductory text to read as follows:

§ 63.1420 Applicability and designation of affected sources.

* * * * *

(d) * * *

(3) Except as specified in paragraph (d)(4) of this section, reactions or processing that occur after the epoxide polymerization is complete and after all catalyst removal steps, if any, are complete.

(4) Beginning no later than the compliance dates specified in § 63.1422(h), replace paragraph (d)(3) of this section with “Reactions or processing that occur after the epoxide polymerization is complete, and after all catalyst removal, solvent removal, purification, drying, and solids handling steps, if any, are complete. If, prior to March 18, 2026, an owner or operator has submitted a notification of compliance status report to its permitting authority and made a determination that the provisions of subpart FFFF of this part are applicable to certain processes that occur after the epoxide polymerization and catalyst removal steps are complete, the owner or operator may continue to comply with subpart FFFF of this part to satisfy the requirements of this subpart for those processes.”

(e) * * *

(3) *Annual applicability determination for non-PMPUs that have produced a polyether polyol.* Once per

year beginning June 1, 2004, the owner or operator of each flexible operation unit that is not designated as a PMPU, but that has produced a polyether polyol at any time in the preceding 5-year period or since the date that the unit began production of any product, whichever is shorter, shall perform the evaluation described in paragraphs (e)(3)(i) through (iii) of this section. However, an owner or operator that does not intend to produce any polyether polyol product in the future, in accordance with paragraph (e)(9) of this section, is not required to perform the evaluation described in paragraphs (e)(3)(i) through (iii) of this section.

* * * * *

■ 5. Amend § 63.1421 by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.1421 Implementation and enforcement.

* * * * *

(c) The authorities that cannot be delegated to state, local, or Tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of an alternative to any electronic reporting to the U.S. EPA required by this subpart.

■ 6. Amend § 63.1422 by revising paragraphs (b), (c), paragraph (d) introductory text, paragraphs (d)(5), and adding paragraph (h) to read as follows:

§ 63.1422 Compliance dates and relationship of this rule to existing applicable rules.

* * * * *

(b) Except as specified in paragraph (h) of this section, new affected sources that commence construction or reconstruction after September 4, 1997 shall be in compliance with this subpart (except § 63.1434(c)(3)) upon initial start-up or by June 1, 1999, whichever is later. New affected sources that commenced construction or reconstruction after September 4, 1997, but on or before January 9, 2012, shall be in compliance with the pressure relief device monitoring requirements of § 63.1434(c)(3) by March 27, 2017. New affected sources that commence construction or reconstruction after January 9, 2012, shall be in compliance with the pressure relief device monitoring requirements of § 63.1434(c)(3) upon initial start-up or by March 27, 2014, whichever is later.

(c) Except as specified in paragraph (h) of this section, existing affected sources shall be in compliance with this subpart (except for § 63.1434 for which compliance is covered by paragraph (d)

of this section) no later than June 1, 2002, as provided in § 63.6(c), unless an extension has been granted as specified in paragraph (e) of this section.

(d) Except as provided for in paragraphs (d)(1) through (6), and (h) of this section, existing affected sources shall be in compliance with § 63.1434 no later than December 1, 1999, unless an extension has been granted as specified in paragraph (e) of this section.

* * * * *

(5) Except as specified in § 63.1434(a)(7), compliance with the surge control vessel and bottoms receiver provisions of § 63.170 shall occur no later than June 1, 2002.

* * * * *

(h) All affected sources that commenced construction or reconstruction on or before December 27, 2024, must be in compliance with the provisions listed in paragraphs (h)(1) through (8) of this section upon initial start-up or on March 18, 2029, whichever is later. All affected sources that commenced construction or reconstruction after December 27, 2024, must be in compliance with the provisions listed in paragraphs (h)(1) through (8) of this section upon initial start-up, or on March 18, 2026, whichever is later.

(1) The provisions specified in § 63.1420(d)(4), the definition of “in ethylene oxide service” in §§ 63.1423, 63.1436, 63.1437(a) and (c)(4), and 63.1439(e)(6)(iii)(A) through (C).

(2) For process vents, the provisions specified in §§ 63.1425(f)(11), (g), and (h); 63.1426(a)(2), (b)(7), (d)(1)(iv), (e)(2)(v) and (vi), and (g), 63.1427(a)(2)(iii), 63.1428(c)(2), (d)(3), and (e)(2); 63.1429(a)(8) and (9) and (c)(3); 63.1430(d)(6) and (h)(7); table 5 to this subpart, for carbon adsorber, for outlet HAP or TOC concentration, adsorbent replacement, and breakthrough, third column; table 5 to this subpart, for all combustion, recovery, or recapture devices, for diversion to the atmosphere from a combustion, recovery, or recapture device or monthly inspections of sealed valves, item 3 in the third column; table 6 to this subpart for carbon adsorber, for outlet HAP or TOC concentration, adsorbent replacement, and breakthrough, third column; table 6 to this subpart for all combustion, recovery, or recapture devices, for diversion to the atmosphere from a combustion, recovery, or recapture device or monthly inspections of sealed valves, item 3 in the third column.

(3) For storage vessels, the provisions specified in § 63.1432(r) through (w) and table 3 to this subpart.

(4) For wastewater, the provisions specified in § 63.1433(a)(21) and (23).

(5) For equipment leaks, the provisions specified in § 63.1434(a)(2), (3), and (6).

(6) For surge control vessels and bottoms receivers, the provisions specified in § 63.1434(a)(7).

(7) For transfer racks, the provisions specified in § 63.1434(i).

(8) For heat exchange systems, the provisions specified in § 63.1435(g) and (i).

* * * * *

■ 7. Revise § 63.1423 to read as follows:

§ 63.1423 Definitions.

(a) The following terms used in this subpart shall have the meaning given them in subparts A and F of this part as specified after each term:

Act (subpart A)
 Administrator (subpart A)
 Automated monitoring and recording system (subpart F)
 Boiler (subpart F)
 Bottoms receiver (subpart F)
 Breakthrough (subpart F)
 By-product (subpart F)
 Car-seal (subpart F)
 Closed vent system (subpart F)
 Combustion device (subpart F)
 Commenced (subpart A)
 Compliance date (subpart A)
 Continuous emission monitoring system (subpart A)
 Continuous monitoring system (subpart A)
 Emission standard (subpart A)
 EPA (subpart A)
 Equipment (subpart F)
 Flow indicator (subpart F)
 Fuel gas (subpart F)
 Fuel gas system (subpart F)
 Hard-piping (subpart F)
 Impurity (subpart F)
 Incinerator (subpart F)
 Loading rack (subpart F)
 Major source (subpart A)
 Malfunction (subpart A)
 Oil-water separator or organic-water separator (subpart F)
 Open-ended valve or line (subpart F)
 Operating permit (subpart F)
 Organic monitoring device (subpart F)
 Owner or operator (subpart A)
 Performance evaluation (subpart A)
 Performance test (subpart A)
 Permitting authority (subpart A)
 Plant site (subpart F)
 Potential to emit (subpart A)
 Pressure release (subpart F)
 Pressure relief device or valve (subpart F)
 Pressure vessel (subpart F)
 Primary fuel (subpart F)
 Process heater (subpart F)
 Process unit shutdown (subpart F)
 Reactor (subpart F)
 Recapture device (subpart F)
 Research and development facility (subpart F)

Responsible official (subpart A)

Run (subpart A)

Secondary fuel (subpart F)

Sensor (subpart F)

Specific gravity monitoring device (subpart F)

State (subpart A)

Surge control vessel (subpart F)

Temperature monitoring device (subpart F)

Test method (subpart A)

Total resource effectiveness index value (subpart F)

Treatment process (subpart F)

Visible emission (subpart A)

(b) All other terms used in this subpart shall have the meaning given them in this section.

Ancillary activities means boilers and incinerators (not used to comply with the emission limits of this subpart PPP), chillers and refrigeration systems, and other equipment and activities that are not directly involved (*i.e.*, they operate within a closed system and materials are not combined with process fluids) in the processing of raw materials or the manufacturing of a product or isolated intermediate.

Annual average concentration, as used in conjunction with the wastewater provisions, means the flow-weighted annual average concentration and is determined by the procedures in § 63.144(b), except as provided in § 63.1433(a)(2).

Annual average flow rate, as used in conjunction with the wastewater provisions, is determined by the procedures in § 63.144(c).

Batch cycle means the step or steps, from start to finish, that occur in a batch unit operation.

Batch unit operation means a unit operation involving intermittent or discontinuous feed into equipment, and, in general, involves the emptying of equipment after the batch cycle ceases and prior to beginning a new batch cycle. Mass, temperature, concentration and other properties of the process may vary with time. Addition of raw material and withdrawal of product do not simultaneously occur in a batch unit operation.

Catalyst extraction means the removal of the catalyst using either solvent or physical extraction method.

Construction means the on-site fabrication, erection, or installation of an affected source. Construction also means the on-site fabrication, erection, or installation of a process unit or a combination of process units which subsequently becomes an affected source or part of an affected source due to a change in primary product.

Continuous record means documentation, either in hard copy or computer readable form, of data values measured at least once during

approximately equal intervals of 15 minutes and recorded at the frequency specified in § 63.1439(d).

Continuous recorder is defined in § 63.101, except that when the definition in § 63.101 reads “or records 15-minute or more frequent block average values,” the phrase “or records 1-hour or more frequent block average values” shall apply for purposes of this subpart.

Continuous unit operation means a unit operation where the inputs and outputs flow continuously. Continuous unit operations typically approach steady-state conditions. Continuous unit operations typically involve the simultaneous addition of raw material and withdrawal of the product.

Control technique means any equipment or process control used for capturing, recovering, or oxidizing organic hazardous air pollutant vapors. Such equipment includes, but is not limited to, absorbers, adsorbers, boilers, condensers, flares, incinerators, process heaters, and scrubbers, or any combination thereof. Process control includes extended cookout (as defined in this section). Condensers operating as reflux condensers that are necessary for processing, such as liquid level control, temperature control, or distillation operation, shall be considered inherently part of the process and will not be considered control techniques.

Emission point means an individual process vent, storage vessel, wastewater stream, or equipment leak.

Epoxide means a chemical compound consisting of a three-membered cyclic ether. Only emissions of epoxides listed in table 4 of this subpart (*i.e.*, ethylene oxide, propylene oxide, butylene oxide, and epichlorohydrin) are regulated by the provisions of this subpart.

Equipment leak means emissions of organic HAP from a connector, pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, surge control vessel, bottoms receiver, or instrumentation system in organic HAP service.

Extended Cookout (ECO) means a control technique that reduces the amount of unreacted epoxides in the reactor. This is accomplished by allowing the product to react for a longer time period, thereby having less unreacted epoxides and reducing epoxides emissions that may have otherwise occurred.

Flexible operation unit means a process unit that manufactures different chemical products by periodically alternating raw materials fed to the process unit or operating conditions at the process unit. These units are also

referred to as campaign plants or blocked operations.

Group 1 combination of batch process vents means, before March 18, 2029, a collection of process vents in a PMPU from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify the product that meet all of the following conditions:

(1) Has annual nonepoxide organic HAP emissions, determined in accordance with § 63.1428(b), of 11,800 kilograms per year (kg/yr) or greater, and

(2) Has a cutoff flow rate, determined in accordance with § 63.1428(e), that is greater than or equal to the annual average flow rate, determined in accordance with § 63.1428(d).

No later than March 18, 2029, *Group 1 combination of batch process vents* means, a collection of process vents in a PMPU from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify the product that has annual nonepoxide organic HAP emissions, determined in accordance with § 63.1428(b), of 4,536 kg/yr (10,000 pounds per year (lb/yr)) or greater.

Group 2 combination of batch process vents means a collection of process vents in a PMPU from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify the product that is not classified as a Group 1 combination of batch process vents.

Group 1 continuous process vent means a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product that meets all of the following conditions:

(1) Has a flow rate greater than or equal to 0.005 standard cubic meters per minute,

(2) Has a total organic HAP concentration greater than or equal to 50 parts per million by volume, and

(3) Has a total resource effectiveness index value, calculated in accordance with § 63.1428(h)(1), less than or equal to 1.0.

Group 2 continuous process vent means a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product that is not classified as a Group 1 continuous process vent.

Group 1 storage vessel means a storage vessel that meets the applicability criteria specified in table 3 of this subpart.

Group 2 storage vessel means a storage vessel that does not fall within

the definition of a Group 1 storage vessel.

Group 1 transfer rack means a transfer rack that loads material with a maximum true vapor pressure greater than or equal to 0.5 pounds per square inch absolute (3.45 kilopascal).

Group 2 transfer rack means a transfer rack that does not fall within the definition of a Group 1 transfer rack.

Group 1 wastewater stream means a process wastewater stream at an existing or new affected source that meets the criteria for Group 1 status in § 63.132(c), with the exceptions listed in § 63.1433(a)(2) for the purposes of this subpart (*i.e.*, for organic HAP listed on table 4 of this subpart only).

Group 2 wastewater stream means any process wastewater stream at an existing affected source or new affected source that does not meet the definition (in this section) of a Group 1 wastewater stream.

Heat exchange system means a device or collection of devices used to transfer heat from process fluids to water without intentional direct contact of the process fluid with the water (*i.e.*, non-contact heat exchanger) and to transport and/or cool the water in a closed-loop recirculation system (cooling tower system) or a once-through system (*e.g.*, river or pond water). For closed-loop recirculation systems, the heat exchange system consists of a cooling tower, all PMPU heat exchangers that are in organic HAP service and serviced by that cooling tower, and all water lines to and from these process unit heat exchangers. For once-through systems, the heat exchange system consists of all heat exchangers that are in organic HAP service servicing an individual PMPU and all water lines to and from these heat exchangers. Sample coolers or pump seal coolers are not considered heat exchangers for the purpose of this definition and are not part of the heat exchange system. Intentional direct contact with process fluids results in the formation of a wastewater.

In ethylene oxide service means the following:

(1) For equipment leaks, any equipment that contains or contacts a fluid (liquid or gas) that is at least 1.0 percent by weight of ethylene oxide. If information exists that suggests ethylene oxide could be present in equipment, the equipment is considered to be “in ethylene oxide service” unless the procedures specified in § 63.109 are performed to demonstrate that the equipment does not meet the definition of being “in ethylene oxide service.” Examples of information that could suggest ethylene oxide could be present in equipment, include calculations based on safety data sheets, material

balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(2) For heat exchange systems, any heat exchange system in a process that cools process fluids (liquid or gas) that are 1.0 percent or greater by weight of ethylene oxide. If knowledge exists that suggests ethylene oxide could be present in a heat exchange system, then the heat exchange system is considered to be “in ethylene oxide service” unless the procedures specified in § 63.109 are performed to demonstrate that the heat exchange system does not meet the definition of being “in ethylene oxide service.” Examples of information that could suggest ethylene oxide could be present in a heat exchange system, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(3) For process vents, each Group 1 and Group 2 process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents within the process would emit uncontrolled, ethylene oxide emissions greater than or equal to 100 lb/yr (45.4 kg/yr). If information exists that suggests ethylene oxide could be present in a Group 1 or Group 2 process vent, then the Group 1 or Group 2 process vent is considered to be “in ethylene oxide service” unless an analysis is performed as specified in § 63.109 to demonstrate that the Group 1 or Group 2 process vent does not meet the definition of being “in ethylene oxide service.” Examples of information that could suggest ethylene oxide could be present in a Group 1 or Group 2 process vent, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(4) For storage vessels, storage vessels of any capacity and vapor pressure storing a liquid that is at least 1.0 percent by weight of ethylene oxide. If knowledge exists that suggests ethylene oxide could be present in a storage vessel, then the storage vessel is considered to be “in ethylene oxide service” unless the procedures specified in § 63.109 are performed to demonstrate that the storage vessel does not meet the definition of being “in ethylene oxide service.” The exemption for “vessels storing organic liquids that contain organic hazardous air pollutants only as impurities” listed in the

definition of “storage vessel” in this section does not apply for storage vessels that may be in ethylene oxide service. Examples of information that could suggest ethylene oxide could be present in a storage vessel, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(5) For wastewater streams, any wastewater stream that contains total annual average concentration of ethylene oxide greater than or equal to 10 parts per million by weight at any flow rate. If knowledge exists that suggests ethylene oxide could be present in a wastewater stream, then the wastewater stream is considered to be “in ethylene oxide service” unless sampling and analysis is performed as specified in § 63.109 to demonstrate that the wastewater stream does not meet the definition of being “in ethylene oxide service.” Examples of information that could suggest ethylene oxide could be present in a wastewater stream, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(6) For paragraphs (1) through (5) of this definition, the following sentence in § 63.109 does not apply: “This section applies beginning no later than the compliance dates specified in § 63.100(k)(11).” Instead, § 63.109 applies beginning no later than the compliance dates specified in § 63.1422(h). Also, an owner or operator of an existing source is not required to comply with § 63.109(a)(1) through (6) for an initial measurement or initial performance test if a previously conducted measurement or performance test was completed on or after March 18, 2021 and the requirements specified in § 63.109(a)(7)(i) through (iii) are met.

In organic hazardous air pollutant service or in organic HAP service means that a piece of equipment or heat exchange system either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP (as defined in this section), as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service. For purposes of the definition of “heat exchange system,” the term “equipment” in § 63.180(d) includes heat exchange systems. Beginning March 18, 2029, any piece of equipment or heat exchange system that is in

ethylene oxide service is also in organic HAP service.

Initial start-up means the first time a new or reconstructed affected source begins production, or, for equipment added or changed as described in § 63.1420(g), the first time the equipment is put into operation to produce a polyether polyol. Initial start-up does not include operation solely for testing equipment. Initial start-up does not include subsequent start-ups of an affected source or portion thereof following malfunctions or shutdowns or following changes in product for flexible operation units. Further, for purposes of § 63.1422, initial start-up does not include subsequent start-ups of affected sources or portions thereof following malfunctions or process unit shutdowns.

Maintenance wastewater is defined in § 63.101, except that the term “polyether polyol manufacturing process unit” shall apply whenever the term “chemical manufacturing process unit” is used. Further, the generation of wastewater from the routine rinsing or washing of equipment in batch operation between batches is not maintenance wastewater, but is considered to be process wastewater, for the purposes of this subpart.

Make or modify the product means to produce the polyether polyol by polymerization of epoxides or other cyclic ethers with compounds having one or more reactive hydrogens, and to incorporate additives (e.g., preservatives, antioxidants, or diluents) in order to maintain the quality of the finished products before shipping. Making and modifying the product for this regulation does not include grafting, polymerizing the polyol, or reacting it with compounds other than EO or PO.

Maximum true vapor pressure is defined in § 63.101, except before March 18, 2029, the terms “transfer” and “transferred” do not apply for the purposes of this subpart. On and after March 18, 2029, the terms “transfer” and “transferred” do apply for the purposes of this subpart.

New process unit means a process unit for which the construction or reconstruction commenced after September 4, 1997.

On-site or on site means, with respect to records required to be maintained by this subpart or required by another subpart referenced by this subpart, a location within the plant site where the affected source is located. On-site storage of records includes, but is not limited to, a location at the affected source or PMPU to which the records pertain or a location elsewhere at the

plant site where the affected source is located.

Operating day refers to the 24-hour period defined by the owner or operator in the Notification of Compliance Status required by § 63.1439(e)(5). That 24-hour period may be from midnight to midnight or another 24-hour period. The operating day is the 24-hour period for which daily average monitoring values are determined.

Organic hazardous air pollutant(s) (organic HAP) means one or more of the chemicals listed in table 4 of this subpart, or any other chemical which:

- (1) Is knowingly produced or introduced into the manufacturing process other than as an impurity; and
- (2) Is listed in table 2 of 40 CFR part 63, subpart F in the HON.

Polyether polyol means a compound formed through the polymerization of E.O. or PO or other cyclic ethers with compounds having one or more reactive hydrogens (i.e., a hydrogen atom bonded to nitrogen, oxygen, phosphorus, sulfur, etc.) to form polyethers (i.e., compounds with two or more ether bonds). This definition of *polyether polyol* excludes cellulose ethers (such as methyl cellulose, carboxymethyl cellulose, hydroxyethyl cellulose, hydroxy ethyl cellulose, and hydroxypropyl methyl cellulose) and materials regulated under 40 CFR part 63, subparts F, G, and H (the HON), such as glycols and glycol ethers.

Polyether polyol manufacturing process unit (PMPU) means a process unit that manufactures a polyether polyol as its primary product, or a process unit designated as a polyether polyol manufacturing unit in accordance with § 63.1420(e)(2). A polyether polyol manufacturing process unit consists of more than one unit operation. This collection of equipment includes purification systems, reactors and their associated product separators and recovery devices, distillation units and their associated distillate receivers and recovery devices, other associated unit operations, storage vessels (including pressure vessels), surge control vessels, bottoms receivers, product transfer racks, connected ducts and piping, combustion, recovery, or recapture devices or systems, and the equipment (i.e., all pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems that are associated with the PMPU) that are subject to the equipment leak provisions as specified in § 63.1434. Ancillary activities are not considered a process or part of any process. Quality assurance/quality

control laboratories are not considered part of the process.

Pressure decay curve is the graph of the reactor pressure versus time from the point when epoxide feed is stopped until the reactor pressure is constant, indicating that most of the epoxide has reacted out of the vapor and liquid phases. This curve shall be determined with no leaks or vents from the reactor.

Primary product is defined in and determined by the procedures specified in § 63.1420(e).

Process unit means a collection of equipment assembled and connected by pipes or ducts to process raw materials and to manufacture a product.

Process vent means a point of emission from a unit operation having a gaseous stream that is discharged to the atmosphere either directly or after passing through one or more combustion, recovery, or recapture devices. Before March 18, 2029, a process vent from a continuous unit operation is a gaseous emission stream containing more than 0.005 weight-percent total organic HAP. On and after March 18, 2029, a process vent from a continuous unit operation is a gaseous emission stream containing more than 0.005 weight-percent total organic HAP or is a gaseous emissions stream that contains a concentration of greater than or equal to 1 parts per million by volume (ppmv) undiluted ethylene oxide and that is part of a collection of vents from a process that when combined contain greater than or equal to 100 lb/yr (45.4 kg/yr) ethylene oxide. Before March 18, 2029, a process vent from a batch unit operation is a gaseous emission stream containing more than 225 kg/yr (500 lb/yr) of organic HAP emissions. On and after March 18, 2029, a process vent from a batch unit operation is a gaseous emission stream containing more than 225 kg/yr (500 lb/yr) of organic HAP emissions or is a gaseous emissions stream that contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide and that is part of a collection of vents from a process that when combined contain greater than or equal to 100 lb/yr (45.4 kg/yr) ethylene oxide. Unit operations that may have process vents are condensers, distillation units, reactors, or other unit operations within the PMPU. Process vents exclude pressure relief device discharges, gaseous streams routed to a fuel gas system(s), and leaks from equipment regulated under § 63.1434. A gaseous emission stream is no longer considered to be a process vent after the stream has been controlled and monitored in accordance with the applicable provisions of this subpart.

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown; water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; equipment washes between batches in a batch process; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

Product means a compound or material which is manufactured by a process unit. By-products, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.

Product class means a group of polyether polyols with a similar pressure decay curve (or faster pressure decay curves) that are manufactured within a given set of operating conditions representing the decline in pressure versus time. All products within a product class shall have an essentially similar pressure decay curve, and operate within a given set of operating conditions. These operating conditions are: a minimum reaction temperature; the number of -OH groups in the polyol; a minimum catalyst concentration; the type of catalyst (e.g., self-catalyzed, base catalyst, or acid catalyst); the epoxide ratio, or a range for that ratio; and the reaction conditions of the system (e.g., the size of the reactor, or the size of the batch).

Reactor liquid means the compound or material made in the reactor, even though the substance may be transferred to another vessel. This material may require further modifications before becoming a final product, in which case the reactor liquid is classified as an "intermediate." This material may be complete at this stage, in which case the reactor liquid is classified as a "product."

Reconstruction means the replacement of components of an affected source or of a previously unaffected stationary source that becomes an affected source as a result of the replacement, to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the

reconstructed source to meet the provisions of this subpart.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers (except reflux condensers), oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin film evaporation units. For the purposes of the monitoring, recordkeeping, or reporting requirements of this subpart, recapture devices are considered to be recovery devices.

Residual is defined in § 63.101, except that when the definition in § 63.101 uses the term "table 9 compounds," the term "organic HAP listed in table 9 to subpart G of this part" shall apply, for the purposes of this subpart.

Shutdown means the cessation of operation of an affected source, a PMPU within an affected source, a waste management unit or unit operation within an affected source, equipment required or used to comply with this subpart, or the emptying or degassing of a storage vessel. The purposes for a shutdown may include, but are not limited to, periodic maintenance, replacement of equipment, or equipment repairs. Shutdown does not include the normal periods between batch cycles. For continuous unit operations, shutdown includes transitional conditions due to changes in product for flexible operation units. For batch unit operations, shutdown does not include transitional conditions due to changes in product for flexible operation units. For purposes of the wastewater provisions, shutdown does not include the routine rinsing or washing of equipment between batch cycles.

Start-up means the setting into operation of an affected source, a PMPU within the affected source, a waste management unit or unit operation within an affected source, equipment required or used to comply with this subpart, or a storage vessel after emptying and degassing. For all processes, start-up includes initial start-up and operation solely for testing equipment. Start-up does not include the recharging of batch unit operations. For continuous unit operations, start-up includes transitional conditions due to changes in product for flexible operation units. For batch unit operations, start-up does not include

transitional conditions due to changes in product for flexible operation units.

Steady-state conditions means that all variables (temperatures, pressures, volumes, flow rates, etc.) in a process do not vary significantly with time; minor fluctuations about constant mean values may occur.

Storage vessel means a tank or other vessel that is used to store liquids that contain one or more organic HAP. Storage vessels do not include:

- (1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;
- (2) [Reserved]
- (3) Except for storage vessels in ethylene oxide service, vessels with capacities smaller than 38 cubic meters;
- (4) Except for storage vessels in ethylene oxide service, vessels and equipment storing and/or handling material that contains no organic HAP, or organic HAP as impurities only;
- (5) Surge control vessels and bottoms receiver tanks;
- (6) Wastewater storage tanks; and
- (7) Storage vessels assigned to another process unit regulated under another subpart of part.

Total organic compounds (TOC) are those compounds, excluding methane and ethane, measured according to the procedures of Method 18 or Method 25A of appendices A–6 and A–7 to part 60 of this chapter, or ASTM D6420–18 (Incorporated by reference, see § 63.14) as specified in this subpart.

Transfer rack means the collection of loading arms and loading hoses, at a single loading rack, that are assigned to a PMPU according to the procedures specified in § 63.1420(f)(1) through (5) (where the term “storage rack” is substituted with “transfer rack”; and the date “June 1, 1999” is substituted with “March 18, 2026”) and are used to fill tank trucks and/or railcars with organic liquids that contain one or more of organic HAP. A transfer rack also includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves.

Unit operation means one or more pieces of process equipment used to make a single change to the physical or chemical characteristics of one or more process streams. Unit operations include, but are not limited to, reactors, distillation units, extraction columns, absorbers, decanters, condensers, and filtration equipment.

Vent stream, as used in reference to process vents, means the emissions from a process vent.

Waste management unit is defined in § 63.101, except that when the definition in § 63.101 uses the term “chemical manufacturing process unit,”

the term “PMPU” shall apply for the purposes of this subpart.

Wastewater means water that:

- (1) Contains either
 - (i) An annual average concentration of organic HAP listed in table 4 of this subpart of at least 5 parts per million by weight and has an annual average flow rate of 0.02 liter per minute or greater, or
 - (ii) An annual average concentration of organic HAP listed on table 4 to this subpart of at least 10,000 parts per million by weight at any flow rate; or
 - (iii) Beginning March 18, 2029, a total annual average concentration of ethylene oxide greater than or equal to 10 parts per million by weight at any flow rate; and that
- (2) Is discarded from a PMPU that is part of an affected source. Wastewater is process wastewater or maintenance wastewater.

■ 8. Amend § 63.1425 by revising paragraph (a), introductory text of paragraphs (b) and (f), and adding paragraphs (f)(11) through (15), (g), and (h) to read as follows:

§ 63.1425 Process vent control requirements.

(a) *Applicability of process vent control requirements.* For each process vent at an affected source, the owner or operator shall comply with the provisions of this section. Owners and operators of all affected sources using epoxides in the production of polyether polyols are subject to the requirements of paragraph (b) of this section. Owners and operators subject to paragraph (b) of this section are also subject to paragraph (g) of this section for process vents in ethylene oxide service. Owners or operators are also subject to the requirements of paragraph (c) of this section only if epoxides are used in the production of polyether polyols and nonepoxide organic HAP are used to make or modify the product. Similarly, owners or operators are also subject to the requirements of paragraph (d) of this section only if epoxides are used in the production of polyether polyols and organic HAP are used in catalyst extraction. Owners and operators subject to paragraph (b), (c), (d), or (g) of this section are also subject to paragraph (h) of this section if the owner or operator chooses to designate a process vent as a maintenance vent as specified in paragraph (h) of this section. The owner or operator of an affected source where polyether polyol products are produced using tetrahydrofuran shall comply with paragraph (f) of this section.

(b) *Requirements for epoxide emissions.* The owner or operator of an

affected source where polyether polyol products are produced using epoxides shall reduce epoxide emissions from process vents from batch unit operations and continuous unit operations within each PMPU in accordance with either paragraph (b)(1) or (2) of this section and if applicable, paragraph (g) of this section.

* * * * *

(f) *Requirements for process vents at PMPUs that produce polyether polyol products using tetrahydrofuran.* For each process vent in a PMPU that uses tetrahydrofuran (THF) to produce one or more polyether polyol products that is, or is part of, an affected source, the owner or operator shall comply with the HON process vent requirements in §§ 63.113 through 63.118, except as provided for in paragraphs (f)(1) through (10) of this section, and, beginning March 18, 2026, except as provided for in paragraphs (f)(11) through (15) of this section.

* * * * *

(11) In §§ 63.116(g) and 63.118(a)(5) and (f)(7) substitute “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(10),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(12) Substitute “as defined in § 63.101” with “as defined in § 63.1423”.

(13) Substitute “For each source as defined in § 63.101, on and after July 15, 2027,” with “For each affected source as described in § 63.1420(a), on and after March 18, 2029,”.

(14) Substitute “§ 63.108” with “§ 63.1436”.

(15) Section 63.113(k)(4) does not apply.

(g) *Process vents in ethylene oxide service.* Beginning no later than the compliance dates specified in § 63.1422(h), if a process vent is in ethylene oxide service then the owner or operator must comply with paragraph (g)(1), (2), or (3) of this section in addition to all other applicable requirements specified in this section.

(1) Reduce emissions of ethylene oxide by venting emissions through a closed vent system to a flare; or

(2) Reduce emissions of ethylene oxide by venting emissions through a closed vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight, or to a concentration less than 1 ppmv for each process vent or to less than 100 pounds per year for all combined process vents within the process. If a combustion device is used, the ethylene

oxide concentration of 1 ppmv must be corrected to 3 percent oxygen.

(3) Reduce emissions of ethylene oxide by greater than or equal to 99.9 percent by weight or to less than 100 pounds per year for all combined process vents within the process by using ECO as a control technique or by using a combination of ECO and venting emissions through a closed vent system to a control device.

(h) *Maintenance vents.* Beginning no later than the compliance dates specified in § 63.1422(h), an owner or operator may designate a process vent that is subject to the requirements in paragraph (b), (c), or (d) of this section as a maintenance vent if the vent is only used as a result of start-up, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed, or placed into service. The owner or operator must comply with the applicable requirements in paragraphs (h)(1) through (3) of this section for each maintenance vent. Any vent designated as a maintenance vent is only subject to the maintenance vent provisions in this paragraph (h) and the associated recordkeeping and reporting requirements in § 63.1430(a) and (h)(9), respectively. The owner or operator does not need to designate a maintenance vent as a Group 1 or Group 2 process vent (for process vents associated with nonepoxide organic HAP emissions from making or modifying product and process vents associated with affected sources that produce polyether polyols using tetrahydrofuran) nor identify maintenance vents in a Notification of Compliance Status report. [Note: process vents subject to the requirements in paragraph (f) of this section may also designate a process vent as a maintenance vent; and even though those standards are the same as the standards specified in this paragraph (h), those standards are specified in the HON process vent requirements according to paragraph (f) of this section.]

(1) Prior to venting to the atmosphere, remove process liquids from the equipment as much as practical and depressurize the equipment to either: A flare meeting the requirements of § 63.1436, as applicable, or using any combination of a non-flare combustion, recovery, and/or recapture device meeting the requirements in paragraph (b)(1)(i) or (ii), (b)(2)(ii) or (iii), (c)(1)(ii), (c)(3)(ii), or (d)(2) of this section, until one of the following conditions, as applicable, is met.

(i) The concentration of the vapor in the equipment served by the

maintenance vent is less than 10 percent of its lower explosive limit (LEL) and has an outlet concentration less than or equal to 20 ppmv hydrogen halide and halogen HAP.

(ii) If there is no ability to measure the concentration of the vapor in the equipment based on the design of the equipment, the pressure in the equipment served by the maintenance vent is reduced to 5 pounds per square inch gauge (psig) or less. Upon opening the maintenance vent, active purging of the equipment cannot be used until the concentration of the vapors in the maintenance vent (or inside the equipment if the maintenance is a hatch or similar type of opening) is less than 10 percent of its LEL.

(iii) The equipment served by the maintenance vent contains less than 50 pounds of total volatile organic compounds (VOC).

(iv) If, after applying best practices to isolate and purge equipment served by a maintenance vent, none of the applicable criterion in paragraphs (h)(1)(i) through (iii) of this section can be met prior to installing or removing a blind flange or similar equipment blind, then the pressure in the equipment served by the maintenance vent must be reduced to 2 psig or less before installing or removing the equipment blind. During installation or removal of the equipment blind, active purging of the equipment may be used provided the equipment pressure at the location where purge gas is introduced remains at 2 psig or less.

(2) Except for maintenance vents complying with paragraph (h)(1)(iii) of this section, the owner or operator must determine the concentration or, if applicable, equipment pressure using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(3) For maintenance vents complying with paragraph (h)(1)(iii) of this section, the owner or operator must determine mass of VOC in the equipment served by the maintenance vent based on the equipment size and contents after considering any contents drained or purged from the equipment. Equipment size may be determined from equipment design specifications. Equipment contents may be determined using process knowledge.

■ 9. Revise § 63.1426 to read as follows:

§ 63.1426 Process vent requirements for determining organic HAP concentration, control efficiency, and aggregated organic HAP emission reduction for a PMPU.

(a) *Use of a flare.* (1) Except as specified in paragraph (a)(2) of this section, when a flare is used to comply with § 63.1425(b)(1)(i) (in combination with other control techniques), (b)(2)(i), (c)(1)(i), (c)(3)(i), or (d)(1), the owner or operator shall comply with § 63.1437(c), and is not required to demonstrate the control efficiency for the flare, if the owner or operator chooses to assume a 98 percent control efficiency for that flare, as allowed under paragraph (e)(2)(i) of this section. In order to use only a flare to comply with § 63.1425(b)(1)(i), or to use a flare and apply a control efficiency greater than 98 percent, an owner or operator shall submit a request in accordance with § 63.6(g) in either the Precompliance Report described in § 63.1439(e)(4), or in a supplement to the precompliance report, as described in § 63.1439(e)(4)(vii).

(2) Beginning no later than the compliance dates specified in § 63.1422(h), paragraph (a)(1) of this section no longer applies and instead the owner or operator shall comply with § 63.1436 when a flare is used to comply with § 63.1425(b)(1)(i) (in combination with other control techniques), (b)(2)(i), (c)(1)(i), (c)(3)(i), or (d)(1). In order to use only a flare to comply with § 63.1425(b)(1)(i) or to use a flare and apply a control efficiency greater than 98 percent, an owner or operator shall submit a request in accordance with § 63.670(r), with exceptions noted in § 63.1436, and receive approval by the Administrator.

(b) *Exceptions to performance tests.* An owner or operator is not required to conduct a performance test when a combustion, recovery, or recapture device specified in paragraphs (b)(1) through (6) of this section is used to comply with § 63.1425(b), (c), or (d).

(1) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(2) A boiler or process heater where the process vent stream is introduced with the primary fuel or is used as the primary fuel.

(3) A combustion, recovery, or recapture device for which a performance test was conducted within the preceding 5-year period, using the same Methods specified in this section and either no deliberate process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process

changes is not required to conduct an initial performance test. Subsequent performance tests shall be conducted according to § 63.1437(a). The operating parameters reported under the previous performance test shall be sufficient to meet the parameter monitoring requirements in this subpart.

(4) A boiler or process heater burning hazardous waste for which the owner or operator:

(i) Has been issued a final hazardous waste permit under part 270 of this chapter and complies with the requirements for hazardous waste burned in boilers and industrial furnaces in part 266, subpart H of this chapter;

(ii) Has certified compliance with the interim status requirements for hazardous waste burned in boilers and industrial furnaces in part 266, subpart H of this chapter;

(iii) Meets the requirement specified in paragraph (b)(4)(v) of this section, and has submitted a Notification of Compliance under § 63.1207(j) and complies with the requirements of subpart EEE of this part; or

(iv) Meets the requirement specified in paragraph (b)(4)(v) of this section, complies with subpart EEE of this part, and will submit a Notification of Compliance under § 63.1207(j) by the date the owner or operator would have been required to submit the initial performance test report for this subpart.

(v) The owner and operator may not waive performance testing pursuant to § 63.1207(d)(4).

(5) A hazardous waste incinerator for which the owner or operator:

(i) Has been issued a final permit under part 270 of this chapter and complies with the requirements for incinerators in part 264, subpart O of this chapter;

(ii) Has certified compliance with the interim status requirements for incinerators in part 265, subpart O of this chapter;

(iii) Meets the requirement specified in paragraph (b)(5)(v) of this section, and has submitted a Notification of Compliance under § 63.1207(j) and complies with the requirements in subpart EEE of this part; or

(iv) Meets the requirement specified in paragraph (b)(5)(v) of this section, complies with the requirements in subpart EEE of this part, and will submit a Notification of Compliance under § 63.1207(j) by the date the owner or operator would have been required to submit the initial performance test report for this subpart.

(v) The owner and operator may not waive performance testing pursuant to § 63.1207(d)(4).

(6) Except as specified in paragraph (b)(7) of this section, combustion, recovery or recapture device (except for condensers) performance may be determined by using the design evaluation described in paragraph (f) of this section, provided that the combustion, recovery or recapture device receives less than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPUs, determined in accordance with paragraph (d) of this section. If a combustion, recovery or recapture device exempted from testing in accordance with this paragraph receives more than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPUs, the owner or operator shall comply with the performance test requirements in paragraph (c) of this section and before March 18, 2026 shall submit the test report in the next Periodic Report. Beginning March 18, 2026, the test report no longer needs to be submitted with the Periodic Report and only needs to be submitted according to § 63.1439(e)(9).

(7) Beginning on the compliance dates specified in § 63.1422(h), paragraphs (b)(6) and (f) of this section do not apply. Instead, the owner or operator shall comply with the performance test requirements in paragraph (c) of this section.

(c) *Determination of organic HAP concentration and control efficiency.* Except as provided in paragraphs (a) and (b) of this section, an owner or operator using a combustion, recovery, or recapture device to comply with an epoxide or organic HAP percent reduction efficiency requirement in § 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2); an epoxide concentration limitation in § 63.1425(b)(1)(ii) or (b)(2)(ii); or an annual epoxide emission limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv), shall conduct a performance test using the applicable procedures in paragraphs (c)(1) through (4) of this section. The organic HAP or epoxide concentration and percent reduction may be measured as total epoxide, total organic HAP, or as TOC minus methane and ethane according to the procedures specified. When conducting testing in accordance with this section, the owner or operator is only required to measure HAP of concern for the specific requirement for which compliance is being determined. For instance, to determine compliance with the epoxide emission requirement of § 63.1425(b), the owner or operator is only required to measure epoxide control efficiency or outlet concentration.

(1) *Sampling site location.* The sampling site location shall be determined as specified in paragraphs (c)(1)(i) and (ii) of this section.

(i) For determination of compliance with a percent reduction of total epoxide requirement in § 63.1425(b)(1)(i), (b)(2)(ii), or a percent reduction of total organic HAP requirement in § 63.1425(c)(1)(ii), (c)(3)(ii), or (d)(2), sampling sites shall be located at the inlet of the combustion, recovery, or recapture device as specified in paragraphs (c)(1)(i)(A), (B), and (C) of this section, and at the outlet of the combustion, recovery, or recapture device.

(A) For process vents from continuous unit operations, the inlet sampling site shall be determined in accordance with either paragraph (c)(1)(i)(A)(1) or (2) of this section.

(1) To demonstrate compliance with either the provisions for epoxide emissions in § 63.1425(b) or the provisions for nonepoxide organic HAP emissions from catalyst extraction in § 63.1425(d), the inlet sampling site shall be located after the exit from the continuous unit operation but before any recovery devices, or

(2) To demonstrate compliance with the requirements for nonepoxide organic HAP emissions from the use of nonepoxide organic HAP in making or modifying the product in § 63.1425(c), the inlet sampling site shall be located after all control techniques to reduce epoxide emissions and after the final nonepoxide organic HAP recovery device.

(B) For process vents from batch unit operations, the inlet sampling site shall be determined in accordance with either paragraph (c)(1)(i)(B)(1) or (2) of this section.

(1) To demonstrate compliance with either the provisions for epoxide emissions in § 63.1425(b) or the provisions for nonepoxide organic HAP emissions from catalyst extraction in § 63.1425(d), the inlet sampling site shall be located after the exit from the batch unit operation but before any recovery device.

(2) To demonstrate compliance with the requirements for nonepoxide organic HAP emissions in making or modifying the product in § 63.1425(c), the inlet sampling site shall be located after all control techniques to reduce epoxide emissions but before any nonepoxide organic HAP recovery device.

(C) If a process vent stream is introduced with the combustion air or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, selection of the

location of the inlet sampling sites shall ensure the measurement of total organic HAP or TOC (minus methane and ethane) concentrations in all process vent streams and primary and secondary fuels introduced into the boiler or process heater.

(ii) To determine compliance with a parts per million by volume total epoxide or TOC limit in § 63.1425(b)(1)(ii) or (b)(2)(iii), the sampling site shall be located at the outlet of the combustion, recovery, or recapture device.

(2) *Frequency.* Performance tests and compliance determinations shall be conducted according to the schedule in § 63.1437(a).

(3) *Testing conditions and calculation of TOC or total organic HAP concentration.*

(i) Testing conditions shall be as specified in paragraphs (c)(3)(i)(A) through (E) of this section, as appropriate.

(A) Testing of process vents from continuous unit operations shall be conducted at maximum representative operating conditions, as described in § 63.1437(a)(1). Each test shall consist of three 1-hour runs. Gas stream volumetric flow rates shall be measured at approximately equal intervals of about 15 minutes during each 1-hour run. The organic HAP concentration (of the HAP of concern) shall be determined from samples collected in an integrated sample over the duration of each 1-hour test run, or from grab samples collected simultaneously with the flow rate measurements (at approximately equal intervals of about 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. For gas streams from continuous unit operations, the organic HAP concentration or control efficiency used to determine compliance shall be the average organic HAP concentration or control efficiency of the three test runs.

(B) Testing of process vents from batch unit operations shall be conducted at absolute worst-case conditions or hypothetical worst-case conditions, as defined in paragraphs (c)(3)(i)(B)(1) through (5) of this section. Worst-case conditions are limited to the maximum production allowed in a state or Federal permit or regulation and the conditions specified in § 63.1437(a)(1). Gas stream volumetric flow rates shall be measured at 15-minute intervals, or at least once during the emission episode. The organic HAP or TOC concentration shall be determined from samples collected in an integrated sample over the duration of the test, or from grab samples collected simultaneously with the flow rate measurements (at approximately equal intervals of about 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate.

(1) Absolute worst-case conditions are defined by the criteria presented in paragraph (c)(3)(i)(B)(1)(i) or (ii) of this section if the maximum load is the most challenging condition for the control device. Otherwise, absolute worst-case conditions are defined by the conditions in paragraph (c)(3)(i)(B)(1)(iii) of this section.

(i) The period in which the inlet to the control device will contain at least 50 percent of the maximum HAP load (in lbs) capable of being vented to the control device over any 8-hour period. An emission profile as described in paragraph (c)(3)(i)(B)(3)(i) of this section shall be used to identify the 8-hour period that includes the maximum projected HAP load.

(ii) A period of time in which the inlet to the control device will contain the highest HAP mass loading rate capable of being vented to the control device. An emission profile as described in paragraph (c)(3)(i)(B)(3)(i) of this section shall be used to identify the period of maximum HAP loading.

(iii) The period of time when the HAP loading or stream composition

(including non-HAP) is most challenging for the control device. These conditions include, but are not limited to the following: periods when the stream contains the highest combined VOC and HAP load described by the emission profiles in paragraph (c)(3)(i)(B)(3) of this section; periods when the streams contain HAP constituents that approach limits of solubility for scrubbing media; or periods when the streams contain HAP constituents that approach limits of adsorptivity for carbon adsorption systems.

(2) Hypothetical worst-case conditions are simulated test conditions that, at a minimum, contain the highest hourly HAP load of emissions that would be predicted to be vented to the control device from the emissions profile described in paragraph (c)(3)(i)(B)(3)(ii) or (iii) of this section.

(3) The owner or operator shall develop an emission profile for the vent to the control device that describes the characteristics of the vent stream at the inlet to the control device under worst case conditions. The emission profile shall be developed based on any one of the procedures described in paragraphs (c)(3)(i)(B)(3)(i) through (iii) of this section, as required by paragraph (c)(3)(i)(B) of this section.

(i) The emission profile shall consider all emission episodes that could contribute to the vent stack for a period of time that is sufficient to include all processes venting to the stack and shall consider production scheduling. The profile shall describe the HAP load to the device that equals the highest sum of emissions from the episodes that can vent to the control device in any given period, not to exceed 1 hour. Emissions per episode shall be divided by the duration of the episode only if the duration of the episode is longer than 1 hour, and emissions per episode shall be calculated using the procedures specified in the following equation:

Equation 1 to Paragraph (c)(3)(i)(B)(3)(i)

$$E = \sum_{i=1}^n P_i MW_i \times \frac{(V)(t)}{(R)(T)} \times \frac{P_T}{P_T - \sum_{j=1}^m (P_j)}$$

Where:

E = Mass of HAP emitted.

V = Purge flow rate at the temperature and pressure of the vessel vapor space.

R = Ideal gas law constant.

T = Temperature of the vessel vapor space (absolute).

P_i = Partial pressure of the individual HAP.

P_j = Partial pressure of individual condensable VOC compounds (including HAP).

P_T = Pressure of the vessel vapor space.

MW_i = Molecular weight of the individual HAP.

t = Time of purge.

n = Number of HAP compounds in the emission stream.

i = Identifier for a HAP compound.

j = Identifier for a condensable compound.

m = Number of condensable compounds (including HAP) in the emission stream.

(ii) The emission profile shall consist of emissions that meet or exceed the highest emissions that would be expected under actual processing conditions. The profile shall describe equipment configurations used to generate the emission events, volatility of materials processed in the equipment, and the rationale used to identify and characterize the emission events. The emissions may be based on using compounds more volatile than compounds actually used in the process(es), and the emissions may be generated from all equipment in the process(es) or only selected equipment.

(iii) The emission profile shall consider the capture and control system limitations and the highest emissions that can be routed to the control device, based on maximum flow rate and concentrations possible because of limitations on conveyance and control equipment (e.g., fans, LEL alarms and safety bypasses).

(4) Three runs, each at a minimum of the complete duration of the batch venting episode or 1 hour, whichever is shorter, and a maximum of 8 hours, are required for performance testing. Each run shall occur over the same worst-case conditions, as defined in paragraph (c)(3)(i)(B) of this section.

(5) If a condenser is used to control the process vent stream(s), the worst case emission episode(s) shall represent a period of time in which a process vent from the batch cycle or combination of cycles (if more than one cycle is vented through the same process vent) will require the maximum heat removal capacity, in Btu/hr, to cool the process vent stream to a temperature that, upon calculation of HAP concentration, will yield the required removal efficiency for the entire cycle. The calculation of maximum heat load shall be based on the emission profile described in paragraph (c)(3)(i)(B)(3) of this section that will allow calculation of sensible and latent heat loads.

(ii) The concentration of either TOC (minus methane or ethane) or total organic HAP (of the HAP of concern) shall be calculated according to paragraph (c)(3)(ii)(A) or (B) of this section.

(A) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be

computed for each run using the following equation:

Equation 2 to Paragraph (c)(3)(ii)(A)

$$C_{TOC} = \sum_{i=1}^x \frac{\left(\sum_{j=1}^n C_{ji} \right)}{x}$$

Where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, parts per million by volume.

C_{ji} = Concentration of sample components j of sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(B) The total organic HAP concentration (C_{HAP}) shall be computed according to Equation 2 to Paragraph (c)(3)(ii)(A) of this section, except that only the organic HAP species shall be summed.

(iii) The concentration of TOC or total organic HAP shall be corrected to 3 percent oxygen if a combustion device is used.

(A) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of appendix A to part 60 of this chapter or the manual method in ANSI/ASME PTC 19–10–1981—Part 10 (Incorporated by reference, see § 63.14) shall be used to determine the oxygen concentration (%O_{2d}). The samples shall be taken during the same time that the TOC (minus methane or ethane) or total organic HAP samples are taken.

(B) The concentration corrected to 3 percent oxygen shall be computed using the following equation:

Equation 3 to Paragraph (c)(3)(iii)(B)

$$C_c = C_m \left(\frac{17.9}{20.9 - \%O_{2d}} \right)$$

Where:

C_c = Concentration of TOC or organic HAP corrected to 3 percent oxygen, dry basis, parts per million by volume.

C_m = Concentration of TOC (minus methane and ethane) or organic HAP, dry basis, parts per million by volume.

%O_{2d} = Concentration of oxygen, dry basis, percent by volume.

(4) *Test methods.* When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (c)(4)(i) through (iv) of this section shall be used, as applicable.

(i) For sample and velocity traverses, Method 1 or 1A of appendix A to part 60 of this chapter shall be used, as

appropriate, except that references to particulate matter in Method 1A do not apply for the purposes of this subpart.

(ii) The velocity and gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of appendix A to part 60 of this chapter, as appropriate.

(iii) The concentration measurements shall be determined using the methods described in paragraphs (c)(4)(iii)(A) through (C) of this section.

(A) Method 18 of appendix A–6 to part 60 of this chapter or Method 320 of appendix A to this part may be used to determine the HAP concentration in any control device efficiency determination. ASTM D6420–18 (Incorporated by reference, see § 63.14) may also be used in lieu of Method 18 or Method 320, if the target compounds are all known and are all listed in Section 1.1 of ASTM D6420–18 as measurable; ASTM D6420–18 shall not be used for methane, ethane, or as a total VOC method.

(B) Method 25 of appendix A to part 60 of this chapter may be used to determine total gaseous nonmethane organic concentration for control efficiency determinations in combustion devices.

(C) Method 25A of appendix A to part 60 of this chapter may be used to determine the HAP or TOC concentration for control device efficiency determinations under the conditions specified in Method 25 of appendix A to part 60 of this chapter for direct measurements of an effluent with a flame ionization detector, or in demonstrating compliance with the 20 ppmv standard. The instrument shall be calibrated on methane or the predominant HAP. If calibrating on the predominant HAP, the use of Method 25A of appendix A to part 60 of this chapter shall comply with paragraphs (c)(4)(iii)(C)(1) through (3) of this section.

(1) The organic HAP used as the calibration gas for Method 25A of appendix A to part 60 of this chapter shall be the single organic HAP representing the largest percent by volume.

(2) The use of Method 25A of appendix A to part 60 of this chapter, is acceptable if the response from the high level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(3) The span value of the analyzer shall be less than 100 ppmv.

(iv) Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A to part 63 to this part may be used.

(5) *Calculation of percent reduction efficiency.* The following procedures shall be used to calculate percent reduction efficiency:

(i) Test duration shall be as specified in paragraphs (c)(3)(i)(A) through (B) of this section, as appropriate.

(ii) The mass rate of either TOC (minus methane and ethane) or total organic HAP of the HAP of concern (E_i , E_o) shall be computed.

(A) The following equations shall be used:

Equation 4 to Paragraph (c)(5)(ii)(A)

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i$$

Equation 5 to Paragraph (c)(5)(ii)(A)

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o$$

Where:

C_{ij} , C_{oj} = Concentration of sample component j of the gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry basis, parts per million by volume.

E_i , E_o = Mass rate of TOC (minus methane and ethane) or total organic HAP at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry basis, kilogram per hour.

M_{ij} , M_{oj} = Molecular weight of sample component j of the gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, gram/gram-mole.

Q_i , Q_o = Flow rate of gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry standard cubic meter per minute.

K_2 = Constant, 2.494×10^{-6} (parts per million) $^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature (gram-mole per standard cubic meter) is 20 °C.

(B) Where the mass rate of TOC is being calculated, all organic compounds (minus methane and ethane) measured by Method 18 of appendix A–6 to part 60 of this chapter, Method 320 of appendix A to this part, or ASTM D6420–18 (Incorporated by reference, see § 63.14) are summed using Equations 4 and 5 to Paragraph (c)(5)(ii)(A) of this section.

(C) Where the mass rate of total organic HAP is being calculated, only the organic HAP species shall be summed using Equations 4 and 5 to Paragraph (c)(5)(ii)(A) of this section.

(iii) The percent reduction in TOC (minus methane and ethane) or total organic HAP shall be calculated using the following equation:

Equation 6 to Paragraph (c)(5)(iii)

$$R = \frac{E_i - E_o}{E_i} (100)$$

Where:

R = Control efficiency of combustion, recovery, or recapture device, percent.
 E_i = Mass rate of TOC (minus methane and ethane) or total organic HAP at the inlet to the combustion, recovery, or recapture device as calculated under paragraph (c)(5)(ii) of this section, kilograms TOC per hour or kilograms organic HAP per hour.

E_o = Mass rate of TOC (minus methane and ethane) or total organic HAP at the outlet of the combustion, recovery, or recapture device, as calculated under paragraph (c)(5)(ii) of this section, kilograms TOC per hour or kilograms organic HAP per hour.

(iv) If the process vent stream entering a boiler or process heater with a design capacity less than 44 megawatts is introduced with the combustion air or as a secondary fuel, the weight-percent reduction of total organic HAP or TOC (minus methane and ethane) across the device shall be determined by comparing the TOC (minus methane and ethane) or total organic HAP in all combusted process vent streams and primary and secondary fuels with the TOC (minus methane and ethane) or total organic HAP, respectively, exiting the combustion device.

(d) *Determination of uncontrolled organic HAP emissions.* For each process vent at a PMPU that is complying with the process vent control requirements in § 63.1425(b)(1)(i), (b)(1)(iii), (b)(2)(ii), (b)(2)(iv), (c)(1)(ii), or (d)(2) using a combustion, recovery, or recapture device, the owner or operator shall determine the uncontrolled organic HAP emissions in accordance with the provisions of this paragraph, with the exceptions noted in paragraph (d)(1) of this section. The provisions of § 63.1427(c)(1) shall be used to calculate uncontrolled epoxide emissions prior to the onset of an extended cook out.

(1) *Exemptions.* Except as specified in paragraph (d)(1)(iv) of this section, the owner or operator is not required to determine uncontrolled organic HAP emissions for process vents in a PMPU if the conditions in paragraph (d)(1)(i), (ii), or (iii) of this section are met.

(i) For PMPUs where all process vents subject to the epoxide emission reduction requirements of § 63.1425(b) are controlled at all times using a combustion, recovery, or recapture

device, or extended cookout, the owner or operator is not required to determine uncontrolled epoxide emissions.

(ii) For PMPUs where the combination of process vents from batch unit operations associated with the use of nonepoxide organic HAP to make or modify the product is subject to the Group 1 requirements of § 63.1425(c)(1), the owner or operator is not required to determine uncontrolled nonepoxide organic HAP emissions for those process vents if every process vent from a batch unit operation associated with the use of nonepoxide organic HAP to make or modify the product in the PMPU is controlled at all times using a combustion, recovery, or recapture device.

(iii) For PMPUs where all process vents associated with catalyst extraction that are subject to the organic emission reduction requirements of § 63.1425(d)(2) are controlled at all times using a combustion, recovery, or recapture device, the owner or operator is not required to determine uncontrolled organic HAP emissions for those process vents.

(iv) Beginning on the compliance dates specified in § 63.1422(h), paragraphs (d)(1)(i) through (iii) of this section do not apply.

(2) *Process vents from batch unit operations.* The uncontrolled organic HAP emissions from an individual batch cycle for each process vent from a batch unit operation shall be determined using the procedures in the NESHAP for Group I Polymers and Resins (40 CFR part 63, subpart U), § 63.488(b)(1) through (9). Uncontrolled emissions from process vents from batch unit operations shall be determined after the exit from the batch unit operation but before any recovery device.

(3) *Process vents from continuous unit operations.* The uncontrolled organic HAP emissions for each process vent from a continuous unit operation in a PMPU shall be determined at the location specified in paragraph (d)(3)(i) of this section, using the procedures in paragraph (d)(3)(ii) of this section.

(i) For process vents subject to either the provisions for epoxide emissions in § 63.1425(b) or the provisions for organic HAP emissions from catalyst extraction in § 63.1425(d), uncontrolled emissions shall be determined after the exit from the continuous unit operation but before any recovery device.

(ii) The owner or operator shall determine the hourly uncontrolled organic HAP emissions from each process vent from a continuous unit operation in accordance with paragraph (c)(5)(ii) of this section, except that the

emission rate shall be determined at the location specified in paragraph (d)(3)(i) of this section.

(e) *Determination of organic HAP emission reduction for a PMPU.* (1) The owner or operator shall determine the organic HAP emission reduction for process vents in a PMPU that are complying with § 63.1425(b)(1)(i),

(b)(2)(ii), (c)(1)(ii), or (d)(2) using Equation 7 to Paragraph (e)(1) of this section. The organic HAP emission reduction shall be determined for each group of process vents subject to the same paragraph (*i.e.*, paragraph (b), (c), or (d)) of § 63.1425. For instance, process vents that emit epoxides are subject to paragraph (b) of § 63.1425.

Therefore, if the owner or operator of an existing affected source is complying with the 98 percent reduction requirement in § 63.1425(b)(2)(ii), the organic HAP (*i.e.*, epoxide) emission reduction shall be determined for the group of vents in a PMPU that are subject to this paragraph.

Equation 7 to Paragraph (e)(1)

$$RED_{PMPU} = \left[\frac{\sum_{i=1}^n (E_{unc, i}) \left(\frac{R_i}{100} \right)}{\sum_{i=1}^n (E_{unc, i}) + \sum_{j=1}^m (E_{unc, j})} \right] * 100$$

Where:

RED_{PMPU} = Organic HAP emission reduction for the group of process vents subject to the same paragraph of § 63.1425, percent.

$E_{unc, i}$ = Uncontrolled organic HAP emissions from process vent *i* that is controlled using a combustion, recovery, or recapture device, or extended cookout, kg/batch cycle for process vents from batch unit operations, kg/hr for process vents from continuous unit operations.

n = Number of process vents in the PMPU that are subject to the same paragraph of § 63.1425 and that are controlled using a combustion, recovery, or recapture device, or extended cookout.

R_i = Control efficiency of the combustion, recovery, or recapture device, or extended cookout, used to control organic HAP emissions from vent *i*, determined in accordance with paragraph (e)(2) of this section.

$E_{unc, j}$ = Uncontrolled organic HAP emissions from process vent *j* that is not controlled using a combustion, recovery, or recapture device, kg/batch cycle for process vents from batch unit operations, kg/hr for process vents from continuous unit operations.

m = Number of process vents in the PMPU that are subject to the same paragraph of § 63.1425 and that are not controlled using a combustion, recovery, or recapture device.

(2) The control efficiency, R_i , shall be assigned as specified below in paragraph (e)(2)(i), (ii), (iii), (iv), (v), or (vi) of this section.

(i) Except as specified in paragraph (e)(2)(v) of this section, if the process vent is controlled using a flare (and the owner or operator has not previously obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.6(g)) or a combustion device specified in paragraph (b)(1), (2), (4), or (5) of this section, and a performance test has not

been conducted, the control efficiency shall be assumed to be 98 percent.

(ii) If the process vent is controlled using a combustion, recovery, or recapture device for which a performance test has been conducted in accordance with the provisions of paragraph (c) of this section, or for which a performance test that meets the requirements of paragraph (b)(3) of this section has been previously performed, the control efficiency shall be the efficiency determined by the performance test.

(iii) If epoxide emissions from the process vent are controlled using extended cookout, the control efficiency shall be the efficiency determined in accordance with § 63.1427(e).

(iv) Except as specified in paragraph (e)(2)(vi) of this section, if the process vent is controlled using a flare, and the owner or operator has obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.6(g), the control efficiency shall be the efficiency approved in accordance with § 63.6(g).

(v) Beginning no later than the compliance dates specified in § 63.1422(h), if the process vent is controlled using a flare meeting the requirements specified in § 63.1436 (and the owner or operator has not previously obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.6(g)) or a combustion device specified in paragraph (b)(1), (2), (4), or (5) of this section, and a performance test has not been conducted, the control efficiency shall be assumed to be 98 percent.

(vi) Beginning no later than the compliance dates specified in § 63.1422(h), if the process vent is controlled using a flare, and the owner

or operator has obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.670(r), with exceptions noted in § 63.1436, the control efficiency shall be that approved efficiency.

(f) *Design evaluation.* Except as specified in paragraph (b)(7) of this section, a design evaluation is required for those control techniques that receive less than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPU, if the owner or operator has chosen not to conduct a performance test for those control techniques in accordance with paragraph (b)(6) of this section. The design evaluation shall include documentation demonstrating that the control technique being used achieves the required control efficiency under worst-case conditions, as determined from the emission profile described in § 63.1426(c)(3)(i)(B)(3)(i).

(1) Except for ECO whose design evaluation is presented in paragraph (f)(2) of this section, to demonstrate that a control technique meets the required control efficiency, a design evaluation shall address the composition and organic HAP concentration of the vent stream, immediately preceding the use of the control technique. A design evaluation shall also address other vent stream characteristics and control technique operating parameters, as specified in any one of paragraphs (f)(1)(i) through (vi) of this section, depending on the type of control technique that is used. If the vent stream is not the only inlet to the control technique, the owner or operator shall also account for all other vapors, gases, and liquids, other than fuels, received into the control technique from one or

more PMPUs, for purposes of the efficiency determination.

(i) For an enclosed combustion technique used to comply with the provisions of § 63.1425(b)(1), (c)(1), or (d), with a minimum residence time of 0.5 seconds and a minimum temperature of 760 °C, the design evaluation shall document that these conditions exist.

(ii) For a combustion control technique that does not satisfy the criteria in paragraph (f)(1)(i) of this section, the design evaluation shall document the control efficiency and address the characteristics listed in paragraphs (f)(1)(ii)(A) through (C) of this section, depending on the type of control technique.

(A) For a thermal vapor incinerator, in the design evaluation the owner or operator shall consider the autoignition temperature of the organic HAP, shall consider the vent stream flow rate, and shall establish the design minimum and average temperatures in the combustion zone and the combustion zone residence time.

(B) For a catalytic vapor incinerator, in the design evaluation the owner or operator shall consider the vent stream flow rate and shall establish the design minimum and average temperatures across the catalyst bed inlet and outlet.

(C) For a boiler or process heater, in the design evaluation the owner or operator shall consider the vent stream flow rate; shall establish the design minimum and average flame zone temperatures and combustion zone residence time; and shall describe the method and location where the vent stream is introduced into the flame zone.

(iii) For a condenser, in the design evaluation the owner or operator shall consider the vent stream flow rate, relative humidity, and temperature, and shall establish the design outlet organic HAP compound concentration level, design average temperature of the exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet. The temperature of the gas stream exiting the condenser shall be measured and used to establish the outlet organic HAP concentration.

(iv) For a carbon adsorption system that regenerates the carbon bed directly onsite as part of the control technique (such as a fixed-bed adsorber), in the design evaluation the owner or operator shall consider the vent stream flow rate, relative humidity, and temperature, and shall establish the design exhaust vent stream organic compound concentration level, adsorption cycle time, number and capacity of carbon beds, type and

working capacity of activated carbon used for the carbon beds, design total regeneration stream mass or volumetric flow over the period of each complete carbon bed regeneration cycle, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of the carbon. For vacuum desorption, the pressure drop shall also be included.

(v) For a carbon adsorption system that does not regenerate the carbon bed directly onsite as part of the control technique (such as a carbon canister), in the design evaluation the owner or operator shall consider the vent stream mass or volumetric flow rate, relative humidity, and temperature, and shall establish the design exhaust vent stream organic compound concentration level, capacity of the carbon bed, type and working capacity of activated carbon used for the carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control technique and source operating schedule.

(vi) For a scrubber, in the design evaluation the owner or operator shall consider the vent stream composition, constituent concentrations, liquid-to-vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation shall establish the design exhaust vent stream organic compound concentration level and shall include the additional information in paragraphs (f)(1)(vi)(A) and (B) of this section for trays and a packed column scrubber.

(A) Type and total number of theoretical and actual trays.

(B) Type and total surface area of packing for entire column and for individual packed sections, if the column contains more than one packed section.

(2) For ECO, the design evaluation shall establish the minimum duration (time) of the ECO, the maximum pressure at the end of the ECO, or the maximum epoxide concentration in the reactor liquid at the end of the ECO for each product class.

(g) *Ethylene oxide compliance determination procedures.* To demonstrate compliance with the emission limits specified in § 63.1425(g) for process vents in ethylene oxide service and establish the parameter monitoring level(s), owners and operators must meet the requirements specified either paragraph (g)(1), (2), (3), or (4) of this section.

(1) Comply with § 63.124, except:

(i) Substitute “§ 63.100(k)(11)” with “§ 63.1422(h)”.

(ii) Substitute “§ 63.113(j)” with “§ 63.1425(g)”.

(iii) Substitute “§ 63.113(j)(1)” with “§ 63.1425(g)(1)”.

(iv) Substitute “§ 63.113(j)(2)” with “§ 63.1425(g)(2) or (3)”.

(v) Substitute “§ 63.108” with “§ 63.1436”.

(vi) When owners or operators conduct performance tests on batch process vents using the procedures in § 63.116(c):

(A) Substitute “the schedule in § 63.103(b)(1) of subpart F of this part” with “§ 63.1437(a)”.

(B) The inlet sampling site shall be located after the exit from the batch unit operation but before any recovery or control device.

(C) The minimum sampling time for each run shall be the complete duration of the batch venting episode or 1 hour, whichever is shorter, instead of that stated in § 63.116(c)(3)(i) or (c)(4)(i).

(D) For process vents from batch unit operations, performance tests shall be conducted either at absolute worst-case conditions or hypothetical worst-case conditions as specified in § 63.1437(a)(1).

(vii) If § 63.124(a)(4) refers to “5 pounds per year,” then substitute it for “100 pounds per year”; otherwise, § 63.124(a)(4) applies as written.

(viii) To demonstrate compliance with § 63.124(b)(2), in lieu of an FTIR CEMS, you may choose to use a gas chromatographic CEMS meeting the requirements of Performance Specification 9 of appendix B to part 60 of this chapter. If an owner or operator uses a gas chromatographic CEMS, then the owner or operator does not need to conduct the performance testing required in § 63.124(b)(3) or the operating parameter monitoring required in paragraphs § 63.124(b)(4) through (6).

(ix) When § 63.124 refers to § 63.148: (A) Substitute “§ 63.100(k)(10)” with “§ 63.1422(h)”.

(B) Substitute “For each source as defined in § 63.101,” with “For each affected source as described in § 63.1420(a).”.

(C) Substitute “Except for pressure relief devices subject to § 63.165(e)(4),” with “Except for pressure relief devices subject to § 63.1434(c).”.

(2) If a combination of ECO and a control device is used for reducing ethylene oxide emissions to meet the percent emission reduction requirement or total combined process vent mass emissions limit in § 63.1425(g)(3), then the owner or operator must comply with both the requirements specified in

paragraph (g)(1) of this section and the requirements specified in § 63.1427.

(3) If ECO alone is used to comply with § 63.1425(g)(3) (*i.e.*, no control devices are used to further reduce ethylene oxide emissions from a process vent already controlled by ECO), then the requirements specified in paragraphs (g)(1) and (2) of this section do not apply. Instead, the owner or operator is required to meet the requirements in § 63.1427.

(4) If an owner or operator is demonstrating compliance with the combined process vent mass emissions limit in § 63.1425(g)(2) or (3) and, within the process, some process vents are uncontrolled (*i.e.*, neither control devices nor ECO are used to reduce ethylene oxide emissions) while others are controlled, then the owner or operator must comply with paragraph (g)(1), (2), or (3) of this section for the controlled process vents and must measure ethylene oxide from the uncontrolled process vents using the procedures specified in § 63.124(a)(2)(ii) and (iii), except:

(A) Substitute “ethylene oxide exiting the outlet of the process vent prior to any releases to the atmosphere” for “ethylene oxide entering the control device and exiting the control device”.

(B) When the inlet of a control device is referenced in any parameter in Equation 1 to § 63.124(a)(2)(iii), it refers to the outlet of the process vent prior to any releases to the atmosphere.

(C) Equation 2 to § 63.124(a)(2)(iii) does not apply.

■ 10. Revise § 63.1427 to read as follows:

§ 63.1427 Process vent requirements for processes using extended cookout as an epoxide emission reduction technique.

(a) *Applicability of extended cookout requirements.* Owners or operators of affected sources that produce polyether polyols using epoxides, and that are using ECO as a control technique to reduce epoxide emissions in order to comply with percent emission reduction requirements in § 63.1425(b)(1)(i) or (b)(2)(ii), or the requirements in § 63.1425(g)(3), shall comply with the provisions of this section. The owner or operator that is using ECO in order to comply with the emission factor requirements in § 63.1425(b)(1)(iii) or § 63.1425(b)(2)(iv) shall demonstrate that the specified emission factor is achieved by following the requirements in § 63.1431. If additional control devices are used to further reduce the HAP emissions from a process vent already controlled by ECO, then the owner or operator shall also comply with the testing, monitoring,

recordkeeping, and reporting requirements associated with the additional control device, as specified in §§ 63.1426, 63.1429, and 63.1430, respectively. For the purposes of this section, replace “epoxide” with “ethylene oxide” when ECO is used to comply with the standards in § 63.1425(g)(3).

(1) For each product class, the owner or operator shall determine the batch cycle percent epoxide emission reduction for the most difficult to control product in the product class, where the most difficult to control product is the polyether polyol that is manufactured with the slowest pressure decay curve.

(2) The owner or operator may determine the batch cycle percent epoxide emission reduction by directly measuring the concentration of the unreacted epoxide, or by using process knowledge, reaction kinetics, and engineering knowledge, in accordance with paragraph (a)(2)(i) of this section.

(i) If the owner or operator elects to use any method other than direct measurement, the epoxide concentration shall be determined by direct measurement for one product from each product class and compared with the epoxide concentration determined using the selected estimation method, with the exception noted in paragraph (a)(2)(ii) of this section. If the difference between the directly determined epoxide concentration and the calculated epoxide concentration is less than 25 percent, then the selected estimation method will be considered to be an acceptable alternative to direct measurement for that class.

(ii) Except as specified in paragraph (a)(2)(iii) of this section, if uncontrolled epoxide emissions prior to the end of the ECO are less than 10 tons per year (9.1 megagrams per year), the owner or operator is not required to perform the direct measurement required in paragraph (a)(2)(i) of this section. Uncontrolled epoxide emissions prior to the end of the ECO shall be determined by the procedures in paragraph (d)(1) of this section.

(iii) Beginning on the compliance dates specified in § 63.1422(h), paragraph (a)(2)(ii) of this section does not apply. Instead, if uncontrolled epoxide emissions prior to the end of the ECO are less than 10 tons per year (9.1 megagrams per year) and the owner or operator elects to use any method other than direct measurement, the owner or operator must comply with either paragraph (a)(2)(iii)(A) or (B) of this section.

(A) Comply with paragraph (a)(2)(i) of this section.

(B) For products with the same capping epoxide (*i.e.*, the last epoxide into the reactor before the end of the epoxide feed), verify the estimation method with direct measurement of three products representing the lowest, median, and highest estimated emissions at the end of the ECO. If the difference between the directly determined epoxide concentration and the calculated epoxide concentration is less than 25 percent for each product, then the selected estimation method will be considered to be an acceptable alternative to direct measurement for all products using that capping epoxide.

(b) *Define the end of epoxide feed.* The owner or operator shall define the end of the epoxide feed in accordance with paragraph (b)(1) or (2) of this section.

(1) The owner or operator shall determine the concentration of epoxide in the reactor liquid at the point in time when all epoxide has been added to the reactor and prior to any venting. This concentration shall be determined in accordance with the procedures in paragraph (f)(1)(i) of this section.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the end of the epoxide feed may be defined by the reactor epoxide partial pressure at the point in time when all epoxide reactants have been added to the reactor. This reactor epoxide partial pressure shall be determined in accordance with the procedures in paragraph (g) of this section.

(i) No epoxide is emitted before the end of the ECO;

(ii) Extended cookout is the only control technique to reduce epoxide emissions; and

(iii) The owner or operator elects to determine the percent epoxide emission reduction for the ECO using reactor epoxide partial pressure in accordance with paragraph (e)(2) of this section.

(c) *Define the onset of the ECO.* The owner or operator shall calculate the uncontrolled emissions for the batch cycle by calculating the epoxide emissions, if any, prior to the onset of the ECO, plus the epoxide emissions at the onset of the ECO. The onset of the ECO is defined as the point in time when the combined unreacted epoxide concentration in the reactor liquid is equal to 25 percent of the concentration of epoxides at the end of the epoxide feed, which was determined in accordance with paragraph (b) of this section.

(1) The uncontrolled epoxide emissions for the batch cycle shall be

determined using the following equation:

Equation 1 to Paragraph (c)(1)

$$E_{e,u} = (C_{liq,i})(V_{liq,i})(D_{liq,i}) + (C_{vap,i})(V_{vap,i})(D_{vap,i}) + (E_{epox,bef})$$

Where:

$E_{e,u}$ = Uncontrolled epoxide emissions at the onset of the ECO, kilograms per (kg/) batch.

$C_{liq,i}$ = Concentration of epoxide in the reactor liquid at the onset of the ECO, which is equal to 25 percent of the concentration of epoxide at the end of the epoxide feed, determined in accordance with paragraph (b)(1) of this section, weight percent.

$V_{liq,i}$ = Volume of reactor liquid at the onset of the ECO, liters.

$D_{liq,i}$ = Density of reactor liquid, kg/liter.

$C_{vap,i}$ = Concentration of epoxide in the reactor vapor space at the onset of the ECO, determined in accordance with paragraph (f)(2) of this section, weight percent.

$V_{vap,i}$ = Volume of the reactor vapor space at the onset of the ECO, liters.

$D_{vap,i}$ = Vapor density of reactor vapor space at the onset of the ECO, kg/liter.

$E_{epox,bef}$ = Epoxide emissions that occur prior to the onset of the ECO, determined in accordance with the provisions of § 63.1426(d), kilograms.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are

met, the owner or operator may define the onset of the ECO as the point in time when the reactor epoxide partial pressure equals 25 percent of the reactor epoxide partial pressure at the end of the epoxide feed, and is not required to determine the uncontrolled epoxide emissions in accordance with paragraph (c)(1) of this section.

(d) *Determine emissions at the end of the ECO.* The owner or operator shall calculate the epoxide emissions at the end of the ECO, where the end of the ECO is defined as the point immediately before the time when the reactor contents are emptied and/or the reactor vapor space purged to the atmosphere or to a combustion, recovery, or recapture device.

(1) The epoxide emissions at the end of the ECO shall be determined using the following equation:

Equation 2 to Paragraph (d)(1)

$$E_{e,E} = (C_{liq,f})(V_{liq,f})(D_{liq,f}) + (C_{vap,f})(V_{vap,f})(D_{vap,f})$$

Where:

$E_{e,E}$ = Epoxide emissions at the end of the ECO, kg.

$C_{liq,f}$ = Concentration of epoxide in the reactor liquid at the end of the ECO, determined in accordance with

paragraph (f)(1) of this section, weight percent.

$V_{liq,f}$ = Volume of reactor liquid at the end of the ECO, liters.

$D_{liq,f}$ = Density of reactor liquid, kg/liter.

$C_{vap,f}$ = Concentration of epoxide in the reactor vapor space as it exits the reactor at the end of the ECO, determined in accordance with paragraph (f)(2) of this section, weight percent.

$V_{vap,f}$ = Volume of the reactor vapor space as it exits the reactor at the end of the ECO, liters.

$D_{vap,f}$ = Vapor density of reactor vapor space at the end of the ECO, kg/liter.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator may determine the reactor epoxide partial pressure at the end of the ECO instead of determining the uncontrolled epoxide emissions at the end of the ECO in accordance with paragraph (d)(1) of this section.

(e) *Determine percent epoxide emission reduction.* (1) The owner or operator shall determine the percent epoxide emission reduction for the batch cycle using the following equation:

Equation 3 to Paragraph (e)(1)

$$R_{batchcycle} = \left[\frac{E_{e,u} - (E_{e,E}) \left(1 - \frac{R_{addon,i}}{100} \right) - (E_{e,o}) \left(1 - \frac{R_{addon,j}}{100} \right)}{E_{e,u}} \right] * 100$$

Where:

$R_{batchcycle}$ = Epoxide emission reduction for the batch cycle, percent.

$E_{e,E}$ = Epoxide emissions at the end of the ECO determined in accordance with paragraph (d)(1) of this section, kilograms.

$R_{addon,i}$ = Control efficiency of combustion, recovery, or recapture device that is used to control epoxide emissions after the ECO, determined in accordance with the provisions of § 63.1426(c) or 63.124(a)(2)(ii) through (iv) as specified in § 63.1426(g), percent.

$E_{e,o}$ = Epoxide emissions that occur before the end of the ECO, determined in accordance with the provisions of § 63.1426(d) or 63.124(a)(2)(ii) and (iii) as specified in § 63.1426(g), kilograms.

$R_{addon,j}$ = Control efficiency of combustion, recovery, or recapture device that is used to control epoxide emissions that occur before the end of the ECO, determined in accordance with the provisions of § 63.1426(c) or 63.124(a)(2)(ii) through (iv) as specified in § 63.1426(g), percent.

$E_{e,u}$ = Uncontrolled epoxide emissions determined in accordance with paragraph (c)(1) of this section, kilograms.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator may determine the percent epoxide emission reduction for the batch cycle using reactor epoxide partial pressure and the following equation, instead of using the procedures in paragraph (e)(1) of this section.

Equation 4 to Paragraph (e)(2)

$$R_{batchcycle} = \left[1 - \frac{P_{epox,f}}{P_{epox,i}} \right] * 100$$

Where:

$R_{batchcycle}$ = Epoxide emission reduction for the batch cycle, percent.

$P_{epox,i}$ = Reactor epoxide partial pressure at the onset of the ECO, determined in

accordance with paragraph (c)(2) of this section, mm Hg.

$P_{epox,f}$ = Reactor epoxide partial pressure at the end of the ECO, determined in accordance with paragraph (c)(2) of this section, mm Hg.

(f) *Determination of epoxide concentrations.* The owner or operator shall determine the epoxide concentrations in accordance with the procedures in this paragraph.

(1) The owner or operator shall determine the concentration of epoxide in the reactor liquid using either direct measurement in accordance with paragraph (f)(1)(i) of this section, or reaction kinetics in accordance with paragraph (f)(1)(ii) of this section. An owner or operator may also request to use an alternative methodology in accordance with paragraph (f)(1)(iii) of this section.

(i) The owner or operator shall submit a standard operating procedure for obtaining the liquid sample, along with

the test method used to determine the epoxide concentration. This information shall be submitted in the Precompliance Report. For ethylene oxide, the test method must be as described in § 63.109(b)(1) or another alternative approved by the Administrator in accordance with § 63.7(f).

(ii) Determine the epoxide concentration in the reactor liquid using the following equation:

Equation 5 to Paragraph (f)(1)(ii)

$$C_{\text{liq}, f} = C_{\text{liq}, i} e^{-kt}$$

Note: This equation assumes a first order reaction with respect to epoxide concentration, where:

$C_{\text{liq}, f}$ = Concentration of epoxide in the reactor liquid at the end of the time period, weight percent.

$C_{\text{liq}, i}$ = Concentration of epoxide in the reactor liquid at the beginning of the time period, weight percent.

k = Reaction rate constant, 1/hr.

t = Time, hours.

(iii) If the owner/operator deems that the methods listed in paragraphs (f)(1)(i) and (ii) of this section are not appropriate for the reaction system for a PMPU, then the owner/operator may submit a request for the use of an alternative method.

(2) The owner or operator shall determine the concentration of epoxide in the reactor vapor space using either direct measurement in accordance with paragraph (f)(2)(i) of this section, or by engineering estimation in accordance with paragraph (f)(2)(ii) of this section. An owner or operator may also request to use an alternative methodology in accordance with paragraph (f)(2)(iii) of this section.

(i) The owner or operator shall take two representative samples from a bleed valve off the reactor's process vent. The owner or operator shall determine the total epoxide concentration using Method 18 of appendix A to part 60 of this chapter.

(ii) Determine the epoxide concentration in the vapor space using Raoult's Law or another appropriate phase equilibrium equation and the liquid epoxide concentration, determined in accordance with paragraph (f)(1) of this section.

(iii) If the owner/operator deems that the methods listed in paragraphs (f)(1)(i) and (ii) of this section are not appropriate for the reaction system for a PMPU, then the owner/operator may submit a request for the use of an alternative method.

(g) *Determination of pressure.* The owner or operator shall determine the total pressure of the system using standard pressure measurement devices calibrated according to the

manufacturer's specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(h) *Determination if pressure decay curves are similar.* The owner or operator shall determine the pressure decay curve as defined in § 63.1423. Products with similar pressure decay curves constitute a product class. To determine if two pressure decay curves are similar when the pressure decay curves for products have different starting and finishing pressures, the owner or operator shall determine the time when the pressure has fallen to half its total pressure by using the following equation:

Equation 6 to Paragraph (h)

$$\text{Time } (P_{\text{half}1}) - \text{Time } (P_{\text{half}2}) < 20\% T_{\text{AVG}}$$

Where:

$P_{\text{half}1}$ = Half the total pressure of the epoxide for product 1.

Time ($P_{\text{half}1}$) = Time when the pressure has fallen to half its total pressure for product 1.

$P_{\text{half}2}$ = Half the total pressure of the epoxide for product 2.

Time ($P_{\text{half}2}$) = Time when the pressure has fallen to half its total pressure for product 2.

T_{AVG} = The average time to cookout to the point where the epoxide pressure is 25 percent of the epoxide pressure at the end of the feed step for products 1 and 2.

(i) *ECO monitoring requirements.* The owner or operator using ECO shall comply with the monitoring requirements of this paragraph to demonstrate continuous compliance with this subpart. Paragraphs (i)(1) through (3) of this section address monitoring of the extended cookout.

(1) To comply with the provisions of this section, the owner or operator shall monitor one of the parameters listed in paragraphs (i)(1)(i) through (iii) of this section, or may utilize the provision in paragraph (i)(1)(iv) of this section.

(i) Time from the end of the epoxide feed;

(ii) The epoxide partial pressure in the closed reactor;

(iii) Direct measurement of epoxide concentration in the reactor liquid at the end of the ECO, when the reactor liquid is still in the reactor, or after the reactor liquid has been transferred to another vessel; or

(iv) An owner or operator may submit a request to the Administrator to monitor a parameter other than the parameters listed in paragraphs (i)(1)(i) through (iii) of this section, as described in § 63.1439(f).

(2) During the determination of the percent epoxide emission reduction in

paragraphs (b) through (e) of this section, the owner or operator shall establish, as a level that shall be maintained during periods of operation, one of the parameters in paragraphs (i)(2)(i) through (iii) of this section, or may utilize the procedure in paragraph (i)(2)(iv) of this section, for each product class, or for each product if complying with paragraph (a)(2)(iii)(B) of this section.

(i) The time from the end of the epoxide feed to the end of the ECO;

(ii) The reactor epoxide partial pressure at the end of the ECO;

(iii) The epoxide concentration in the reactor liquid at the end of the ECO, when the reactor liquid is still in the reactor, or after the reactor liquid has been transferred to another vessel; or

(iv) An owner or operator may submit a request to the Administrator to monitor a parameter other than the parameters listed in paragraphs (i)(2)(i) through (iii) of this section, as described in § 63.1439(f).

(3) For each batch cycle where ECO is used to reduce epoxide emissions, the owner or operator shall record the value of the monitored parameter at the end of the ECO. This parameter is then compared with the level established in accordance with paragraph (i)(2) of this section to determine if an excursion has occurred. An ECO excursion is defined as one of the situations described in paragraphs (i)(3)(i) through (v) of this section.

(i) When the time from the end of the epoxide feed to the end of the ECO is less than the time established in paragraph (i)(2)(i) of this section;

(ii) When the reactor epoxide partial pressure at the end of the ECO is greater than the partial pressure established in paragraph (i)(2)(ii) of this section;

(iii) When the epoxide concentration in the reactor liquid at the end of the ECO is greater than the epoxide concentration established in paragraph (i)(2)(iii) of this section;

(iv) When the parameter is not measured and recorded at the end of the ECO; or

(v) When the alternative monitoring parameter is outside the range established under § 63.1439(f) for proper operation of the ECO as a control technique.

(j) *Recordkeeping requirements.* (1) The owner or operator shall maintain the records specified in paragraphs (j)(1)(i) and (ii) of this section, for each product class. The owner or operator shall also maintain the records related to the initial determination of the percent epoxide emission reduction specified in paragraphs (j)(1)(iii)

through (xi) of this section, as applicable, for each product class.

(i) Operating conditions of the product class, including:

- (A) Pressure decay curve;
- (B) Minimum reaction temperature;
- (C) Number of reactive hydrogens in the raw material;
- (D) Minimum catalyst concentration;
- (E) Ratio of E.O./PO at the end of the epoxide feed; and
- (F) Reaction conditions, including the size of the reactor or batch.

(ii) A listing of all products in the product class, along with the information specified in paragraphs (j)(1)(i)(A) through (F) of this section, for each product. When complying with paragraph (a)(2)(iii)(B) of this section, note the capping epoxide for each product.

(iii) The concentration of epoxide at the end of the epoxide feed, determined in accordance with paragraph (b)(1) of this section.

(iv) The concentration of epoxide at the onset of the ECO, determined in accordance with paragraph (c) of this section.

(v) The uncontrolled epoxide emissions at the onset of the ECO, determined in accordance with paragraph (c)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the uncontrolled epoxide emissions.

(vi) The epoxide emissions at the end of the ECO, determined in accordance with paragraph (d)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the epoxide emissions.

(vii) The percent epoxide reduction for the batch cycle, determined in accordance with paragraph (e)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the percent reduction.

(viii) The parameter level, established in accordance with paragraph (i)(3) of this section.

(ix) If epoxide emissions occur before the end of the ECO, the owner or operator shall maintain records of the time and duration of all such emission episodes that occur during the initial demonstration of batch cycle efficiency.

(x) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator is not required to maintain the records specified in paragraphs (j)(1)(iii) through (iv) of this section, but shall maintain the records specified in paragraphs (j)(1)(x)(A), (B), and (C) of this section.

(A) The reactor epoxide partial pressure at the following times:

- (1) At end of the epoxide feed, determined in accordance with paragraph (b)(2) of this section;
- (2) At the onset of the ECO, established in accordance with paragraph (c)(2) of this section; or
- (3) At the end of the ECO, determined in accordance with paragraph (d)(2) of this section.

(B) The percent epoxide reduction for the batch cycle, determined in accordance with paragraph (e)(2) of this section. The records shall also include all the measurements and assumptions used to calculate the percent reduction.

(C) The reactor epoxide partial pressure at the end of the ECO.

(xi) For each product class, the product that was determined to be the most difficult to control and how that determination was made. When complying with paragraph (a)(2)(iii)(B) of this section, the three products used to verify the estimation method for each capping epoxide and how those products were chosen as representative of the lowest, median, and highest estimated emissions. For each verification, keep a record of the difference between the directly determined concentration and the calculated concentration using the estimation method.

(2) The owner or operator shall maintain the records specified in paragraphs (j)(2)(i) through (v) of this section.

(i) For each batch cycle, the product being produced and the product class to which it belongs. When complying with paragraph (a)(2)(iii)(B) of this section, note the capping epoxide for the product produced.

(ii) For each batch cycle, the owner or operator shall record the value of the parameter monitored in accordance with paragraph (i)(3) of this section.

(iii) If a combustion, recovery, or recapture device is used to reduce emission in conjunction with ECO, the owner or operator shall record the information specified in § 63.1430(d) and comply with the monitoring provisions in § 63.1429 or § 63.124 as specified in § 63.1426(g).

(iv) [Reserved]

(v) If epoxide emissions occur before the end of the ECO, the owner or operator shall maintain records of the time and duration of all such emission episodes.

(k) *Reporting requirements.* The owner or operator shall comply with the reporting requirements in this paragraph.

(1) The information specified in paragraphs (k)(1)(i) through (ii) of this

section shall be provided in the Precompliance Report, as specified in § 63.1439(e)(4).

(i) A standard operating procedure for obtaining the reactor liquid sample and a method that will be used to determine the epoxide concentration in the liquid, in accordance with paragraph (f)(1)(i) of this section.

(ii) A request to monitor a parameter other than those specified in paragraph (i)(1)(i), (ii), or (iii) of this section, as provided for in paragraph (i)(1)(iv) of this section.

(2) The information specified in paragraphs (k)(2)(i) through (iv) of this section shall be provided in the Notification of Compliance Status, as specified in § 63.1439(e)(5).

(i) For each product class, the information specified in paragraphs (k)(2)(i)(A) through (C) of this section.

(A) The operating conditions of this product class, as specified in paragraph (j)(1)(i) of this section.

(B) A list of all products in the product class. When complying with paragraph (a)(2)(iii)(B) of this section, note the capping epoxide for each product.

(C) The percent epoxide emission reduction, determined in accordance with paragraph (e) of this section.

(ii) The parameter for each product class, as determined in accordance with paragraph (i)(2) of this section.

(iii) If a combustion, recovery, or recapture device is used in addition to ECO to reduce emissions, the information specified in § 63.1430(g)(1).

(iv) If epoxide emissions occur before the end of the ECO, a listing of the time and duration of all such emission episodes that occur during the initial demonstration of batch cycle efficiency.

(3) The information specified in paragraphs (k)(3)(i) through (iii) of this section shall be provided in the Periodic Report, as specified in § 63.1439(e)(6).

(i) Reports of each batch cycle for which an ECO excursion occurred, as defined in paragraph (i)(3) of this section. At a minimum, include an identification of the PMPU as well as the start date and time of the batch cycle and the type of excursion in the Periodic Report. When the excursion is caused by a parameter exceedance, specify the operating parameter, the applicable limit, and the value of the monitored parameter at the end of the ECO.

(ii) Notification of each batch cycle when the time and duration of epoxide emissions before the end of the ECO, recorded in accordance with paragraph (j)(2)(v) of this section, exceed the time and duration of the emission episodes during the initial epoxide emission

percentage reduction determination, as recorded in paragraph (j)(1)(viii) of this section. At a minimum, include an identification of the PMPU as well as the start date and time of the batch cycle in the Periodic Report.

(iii) If a combustion, recovery, or recapture device is used to reduce emissions, the information specified in § 63.1430(h).

(l) *New polyether polyol products.* If an owner or operator wishes to utilize ECO as a control option for a polyether polyol not previously assigned to a product class and reported to the Agency in accordance with either paragraph (k)(2)(i)(B), (l)(1)(ii), or (l)(2)(iii) of this section, the owner or operator shall comply with the provisions of paragraph (l)(1) or (2) of this section.

(1) If the operating conditions of the new polyether polyol are consistent with the operating conditions for an existing product class, the owner or operator shall comply with the requirements in paragraphs (l)(1)(i) and (ii) of this section.

(i) The owner or operator shall update the list of products for the product class required by paragraph (j)(1)(ii) of this section, and shall record the information in paragraphs (j)(1)(i)(A) through (F) of this section for the new product.

(ii) Within 180 days after the production of the new polyether polyol, the owner or operator shall submit a report updating the product list previously submitted for the product class. This information may be submitted along with the next Periodic Report.

(2) If the operating conditions of the new polyether polyol do not conform with the operating characteristics of an existing product class, the owner or operator shall establish a new product class and shall comply with provisions of paragraphs (l)(2)(i) through (iii) of this section.

(i) The owner or operator shall establish the batch cycle percent epoxide emission reduction in accordance with paragraphs (b) through (g) of this section for the product class.

(ii) The owner or operator shall establish the records specified in paragraph (j)(1) of this section for the product class.

(iii) Within 180 days of the production of the new polyether polyol, the owner or operator shall submit a report containing the information specified in paragraphs (k)(2)(i) and (ii) of this section.

(m) *Polyether polyol product changes.* If a change in operation, as defined in paragraph (m)(1) of this section, occurs

for a polyether polyol that has been assigned to a product class and reported to the Agency in accordance with paragraph (k)(2)(i)(B), (l)(1)(ii), or (l)(2)(iii) of this section, the owner or operator shall comply with the provisions of paragraphs (m)(2) through (3) of this section.

(1) A change in operation for a polyether polyol is defined as a change in any one of the parameters listed in paragraphs (m)(1)(i) through (ix) of this section.

(i) A significant change in reaction kinetics;

(ii) Use of a different oxide reactant;

(iii) Use of a different E.O./PO ratio;

(iv) A lower reaction temperature;

(v) A lower catalyst feed on a mole/mole fraction OH basis;

(vi) A shorter cookout;

(vii) A lower reactor pressure;

(viii) A different type of reaction, (e.g., a self-catalyzed vs. catalyzed reaction); or

(ix) A marked change in reaction conditions (e.g., a markedly different liquid level).

(2) If the operating conditions of the product after the change in operation remain within the operation conditions of the product class to which the product was assigned, the owner or operator shall update the records specified in paragraphs (j)(1)(i)(A) through (F) of this section for the product.

(3) If the operating conditions of the product after the change in operation are outside of the operating conditions of the product class to which the product was assigned, the owner or operator shall comply with the requirements in paragraph (m)(3)(i) or (ii) of this section, as appropriate.

(i) If the new operating conditions of the polyether polyol are consistent with the operating conditions for another existing product class, the owner or operator shall comply with the requirements in paragraphs (m)(3)(i)(A) and (B) of this section.

(A) The owner or operator shall update the list of products for the product class that the product is leaving, and for the product class that the product is entering, and shall record the new information in paragraphs (j)(1)(i)(A) through (F) of this section for the product.

(B) Within 180 days after the change in operating conditions for the polyether polyol product, the owner or operator shall submit a report updating the product lists previously submitted for the product class. This information may be submitted along with the next Periodic Report.

(ii) If the new operating conditions of the polyether polyol product do not

conform with the operating characteristics of an existing product class, the owner or operator shall establish a new product class and shall comply with provisions of paragraphs (m)(3)(i)(A) through (C) of this section.

(A) The owner or operator shall establish the batch cycle percent epoxide emission reduction in accordance with paragraphs (b) through (g) of this section for the product class.

(B) The owner or operator shall establish the records specified in paragraph (j)(1) of this section for the product class.

(C) Within 180 days of the change in operating conditions for the polyether polyol, the owner or operator shall submit a report containing the information specified in paragraphs (k)(2)(i) and (ii) of this section.

■ 11. Amend § 63.1428 by revising paragraph (a) introductory text, and paragraphs (c), (d), and (e) to read as follows:

§ 63.1428 Process vent requirements for group determination of PMPUs using a nonepoxide organic HAP to make or modify the product.

(a) *Process vents from batch unit operations.* The owner or operator shall determine, for each PMPU located at an affected source, if the combination of all process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify the product is a Group 1 combination of batch process vents, as defined in § 63.1423. The annual uncontrolled nonepoxide organic HAP emissions, determined in accordance with paragraph (b) of this section, and annual average flow rate, determined if applicable in accordance with paragraph (c) of this section, shall be determined for all process vents from batch unit operations associated with the use of a nonepoxide organic HAP to make or modify the product, with the exception of those vents specified in paragraph (i) of this section, at the location after all applicable control techniques have been applied to reduce epoxide emissions in accordance with paragraph (a)(1) or (2) of this section.

* * * * *

(c) *Minimum emission level exemption.* (1) Except as specified in paragraph (c)(2) of this section, if the annual emissions of TOC or nonepoxide organic HAP from the combination of process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify a polyether polyol for a PMPU are less than 11,800 kg/yr, the owner or operator of that PMPU is not required to

comply with the provisions in paragraphs (d) and (e) of this section.

(2) Beginning no later than the compliance dates specified in § 63.1422(h), paragraph (c)(1) of this section no longer applies.

(d) *Determination of average flow rate and annual average flow rate.* Except as specified in paragraph (d)(3) of this section, the owner or operator shall determine, for each PMPU, the total annual average flow rate for the combination of all process vents from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify a product in accordance with paragraphs (d)(1) and (2) of this section.

(1) The annual average flow rate for each process vent from batch unit operations that is associated with the use of nonepoxide organic HAP to make or modify the product shall be determined using the batch process vent procedures in the NESHAP for Group I Polymers and Resins (40 CFR part 63, subpart U), § 63.488(e).

(2) The owner or operator shall sum the annual average flow rates from the individual process vents from batch unit operations in a PMPU, determined in accordance with paragraph (d)(1) of this section, to obtain the total annual average flow rate for the combination of process vents associated with the use of a nonepoxide organic HAP to make or modify the product, for the PMPU.

(3) Beginning no later than the compliance dates specified in § 63.1422(h), paragraphs (d)(1) and (2) of this section no longer apply.

(e) *Determination of cutoff flow rate.*

(1) Except as specified in paragraph (e)(2) of this section, for each PMPU at an affected source that uses nonepoxide organic HAP to make or modify the product, the owner or operator shall calculate the cutoff flow rate using the following equation:

Equation 1 of Paragraph (e)(1)

$$CFR = (0.00437)(AE) - 51.6$$

Where:

CFR = Cutoff flow rate, standard cubic meters per minute (scmm).

AE = Annual TOC or nonepoxide organic HAP emissions from the combination of process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify the product, as determined in paragraph (b)(2) of this section, kg/yr.

(2) Beginning no later than the compliance dates specified in § 63.1422(h), paragraph (e)(1) of this section no longer applies.

* * * * *

■ 12. Amend § 63.1429 by revising paragraphs (a)(2) and (6), adding

paragraphs (a)(8) and (9), and revising paragraph (c) to read as follows:

§ 63.1429 Process vent monitoring requirements.

(a) * * *

(2) Except as specified in paragraph (a)(8) of this section, where a flare is used, the following monitoring equipment is required: a device (including but not limited to a thermocouple, ultraviolet beam sensor, or infrared sensor) capable of continuously detecting the presence of a pilot flame.

* * * * *

(6) Except as specified in paragraph (a)(9) of this section, where a carbon adsorber is used, an integrating regeneration stream flow monitoring device having an accuracy of +10 percent or better, capable of recording the total regeneration stream mass or volumetric flow for each regeneration cycle, and a carbon bed temperature monitoring device, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle are required.

* * * * *

(8) Beginning no later than the compliance dates specified in § 63.1422(h), paragraph (a)(2) of this section no longer applies and instead the owner or operator of the affected source shall comply with § 63.1436 for the flare.

(9) Beginning no later than the compliance dates specified in § 63.1422(h), if the owner or operator vents emissions through a closed vent system to an adsorber(s) that cannot be regenerated or a regenerative adsorber(s) that is regenerated offsite, then the owner or operator shall install a system of two or more adsorber units in series and comply with the requirements specified in paragraphs (a)(9)(i) through (iii) of this section.

(i) Conduct an initial performance test or design evaluation of the adsorber and establish the breakthrough limit and adsorber bed life.

(ii) Monitor the HAP or TOC concentration through a sample port at the outlet of the first adsorber bed in series according to the schedule in paragraph (a)(9)(iii)(B) of this section. The owner or operator shall measure the concentration of HAP or TOC using either a portable analyzer, in accordance with Method 21 of appendix A-7 to part 60 of this chapter using methane, propane, isobutylene, or the primary HAP being controlled as the calibration gas or Method 25A of appendix A-7 to part 60 of this chapter using methane,

propane, or the primary HAP being controlled as the calibration gas.

(iii) Comply with paragraph (a)(9)(iii)(A) of this section, and comply with the monitoring frequency according to paragraph (a)(9)(iii)(B) of this section.

(A) The first adsorber in series shall be replaced immediately when breakthrough, as defined in § 63.1423, is detected between the first and second adsorber. The original second adsorber (or a fresh canister) will become the new first adsorber and a fresh adsorber will become the second adsorber. For purposes of this paragraph (a)(9)(iii)(A), “immediately” means within eight hours of the detection of a breakthrough for adsorbers of 55 gallons or less, and within 24 hours of the detection of a breakthrough for adsorbers greater than 55 gallons. The owner or operator shall monitor at the outlet of the first adsorber within three days of replacement to confirm it is performing properly.

(B) Based on the adsorber bed life established according to paragraph (a)(9)(i) of this section and the date the adsorbent was last replaced, conduct monitoring to detect breakthrough at least monthly if the adsorbent has more than two months of life remaining, at least weekly if the adsorbent has between two months and two weeks of life remaining, and at least daily if the adsorbent has two weeks or less of life remaining.

* * * * *

(c) *Monitoring of bypass lines.* The owner or operator of a process vent using a process vent system that contains bypass lines that could divert a process vent stream away from the combustion, recovery, or recapture device used to comply with the process vent control requirements in § 63.1425(b), (c), or (d) shall comply with paragraphs (c)(1) or (2), and (3) of this section. Except as specified in paragraph (c)(3) of this section, equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief devices needed for safety purposes are not subject to paragraph (c)(1) or (2) of this section.

(1) Properly install, maintain, and operate a flow indicator that takes a reading at least once at approximately equal intervals of about 15 minutes. Records shall be generated as specified in the process vent reporting and recordkeeping provisions in § 63.1430(d)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert emissions away from the combustion, recovery, or recapture device and to the atmosphere; or

(2) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the non-diverting position and emissions are not diverted through the bypass line. Records shall be generated as specified in the process vent reporting and recordkeeping provisions in § 63.1430(d)(4)(i).

(3) Beginning no later than the compliance dates specified in § 63.1422(h):

(i) The use of a bypass line at any time on a closed vent system to divert emissions (subject to the emission standards in § 63.1425) to the atmosphere or to a control device not meeting the requirements specified in this subpart is an emissions standards violation.

(ii) The last sentence in paragraph (c) of this section no longer applies. Instead, the exemptions specified in paragraphs (c)(3)(ii)(A) and (B) of this section apply.

(A) Except for pressure relief devices subject to § 63.1434(c), equipment such as low leg drains and equipment subject to the requirements of subpart H of this part are not subject to paragraph (c) of this section.

(B) Open-ended valves or lines that use a cap, blind flange, plug, or second valve and follow the requirements specified in § 60.482–6(a)(2), (b), and (c) or follow requirements codified in another regulation that are the same as § 60.482–6(a)(2), (b), and (c) are not subject to paragraph (c) of this section.

* * * * *

■ 13. Revise § 63.1430 to read as follows:

§ 63.1430 Process vent reporting and recordkeeping requirements.

(a) *Maintenance vent compliance records.* For each maintenance vent opening subject to the requirements of § 63.1425(h), owners and operators must keep the applicable records specified in paragraphs (a)(1) through (5) of this section.

(1) Owners and operators must maintain standard site procedures used to deinventory equipment for safety purposes (e.g., hot work or vessel entry procedures) to document the procedures used to meet the requirements in § 63.1425(h). The current copy of the procedures must be retained and available on-site at all times. Previous versions of the standard site procedures, as applicable, must be retained for five years.

(2) If complying with the requirements of § 63.1425(h)(1)(i), and

the lower explosive limit at the time of the vessel opening exceeds 10 percent, identification of the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and the lower explosive limit at the time of the vessel opening.

(3) If complying with the requirements of § 63.1425(h)(1)(ii), and either the vessel pressure at the time of the vessel opening exceeds 5 psig or the lower explosive limit at the time of the active purging was initiated exceeds 10 percent, identification of the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, the pressure of the vessel or equipment at the time of discharge to the atmosphere and, if applicable, the lower explosive limit of the vapors in the equipment when active purging was initiated.

(4) If complying with the requirements of § 63.1425(h)(1)(iii), records of the estimating procedures used to determine the total quantity of VOC in the equipment and the type and size limits of equipment that contain less than 50 pounds of VOC at the time of maintenance vent opening. For each maintenance vent opening that contains greater than 50 pounds of VOC for which the deinventory procedures specified in paragraph (a)(1) of this section are not followed or for which the equipment opened exceeds the type and size limits established in the records specified in this paragraph (a)(4), records that identify the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere.

(5) If complying with the requirements of § 63.1425(h)(1)(iv), identification of the maintenance vent, the process units or equipment associated with the maintenance vent, records documenting actions taken to comply with other applicable alternatives and why utilization of this alternative was required, the date of maintenance vent opening, the equipment pressure and lower explosive limit of the vapors in the equipment at the time of discharge, an indication of whether active purging was performed and the pressure of the equipment during the installation or removal of the blind if active purging was used, the duration the maintenance vent was open during the blind installation or removal process, and records used to

estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere for each applicable maintenance vent opening.

(b) *Records to demonstrate compliance.* The owner or operator complying with the process vent control requirements in § 63.1425(b), (c), or (d) shall keep the following records, as applicable, readily accessible:

(1) For flares complying with § 63.11(b) to comply with the process vent control requirements in § 63.1425(b)(2)(i), (c)(1)(i), (c)(3)(i), or (d)(1), the owner or operator shall keep the records specified in paragraphs (b)(1)(i) through (iii) of this section. For flares complying with § 63.1436, the owner or operator shall comply with the recordkeeping requirements specified therein.

(i) The flare design (i.e., steam-assisted, air-assisted, or non-assisted);

(ii) All visible emission readings, heat content determinations, flow rate determinations, and exit velocity determinations made during the flare specification determination required by § 63.1437(c); and

(iii) All periods during the flare specification determination required by § 63.1437(c) when all pilot flames are absent.

(2) The following information when using a combustion, recovery, or recapture device (other than a flare) to achieve compliance with the process vent control requirements in § 63.1425(b), (c), or (d):

(i) For a combustion, recovery, or recapture device being used to comply with a percent reduction requirement of § 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2), or the annual epoxide emission limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv), the percent reduction of organic HAP or TOC achieved, as determined using the procedures specified in the process vent requirements in § 63.1426;

(ii) For a combustion device being used to comply with an outlet concentration limitation of § 63.1425(b)(1)(ii) or (b)(2)(iii), the concentration of organic HAP or TOC outlet of the combustion device, as determined using the procedures specified in the process vent requirements in § 63.1426;

(iii) For a boiler or process heater, a description of the location at which the process vent stream is introduced into the boiler or process heater;

(iv) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the process vent stream is introduced with combustion air or is used as a secondary

fuel and is not mixed with the primary fuel, the percent reduction of organic HAP or TOC achieved, as determined using the procedures specified in § 63.1426.

(c) *Records related to the establishment of parameter monitoring levels.* For each parameter monitored according to the process vent monitoring requirements in § 63.1429(a) and either table 5 or 6 to this subpart, or for alternate parameters and/or parameters for alternate control techniques monitored according to the alternative parameter monitoring reporting requirements in § 63.1439(f) as allowed under § 63.1429(b), maintain documentation showing the establishment of the level that indicates that the combustion, recovery, or recapture device is operated in a manner to ensure compliance with the provisions of this subpart, as required by the process vent monitoring requirements in § 63.1429(d).

(d) *Records to demonstrate continuous compliance.* The owner or operator that uses a combustion, recovery, or recapture device to comply with the process vent control requirements in § 63.1425(b), (c), or (d) shall keep the following records readily accessible:

(1) Continuous records of the equipment operating parameters specified to be monitored under the process vent monitoring requirements in § 63.1429(a) as applicable, and listed in table 5 or 6 to this subpart, as applicable, or specified by the Administrator in accordance with the alternative parameter monitoring reporting requirements in § 63.1439(f), as allowed under § 63.1429(b). These records shall be kept as specified under § 63.1439(d), except as specified in paragraphs (d)(1)(i) and (ii) of this section.

(i) For flares, the records specified in table 5 or 6 to this subpart shall be maintained in place of continuous records.

(ii) For carbon adsorbers used for process vents from batch unit operations, the records specified in table 5 of this subpart shall be maintained in place of daily averages.

(2) Records of the daily average value for process vents from continuous unit operations or batch unit operations of each continuously monitored parameter, except as provided in paragraphs (d)(2)(i) and (ii) of this section.

(i) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in computing the daily averages. In

addition, monitoring data recorded during periods of non-operation of the process (or specific portion thereof) resulting in cessation of organic HAP emissions shall not be included in computing the daily averages.

(ii) If all recorded values for a monitored parameter during an operating day are above the minimum or below the maximum parameter monitoring level established in accordance with the process vent monitoring requirements in § 63.1429(d), the owner or operator may record that all values were above the minimum or below the maximum level established, rather than calculating and recording a daily average for that operating day.

(3) Except as specified in paragraph (d)(6) of this section, hourly records of whether the flow indicator for bypass lines specified under § 63.1429(c)(1) was operating and whether a diversion was detected at any time during the hour. Also, records of the time(s) of all periods when the process vent was diverted from the combustion, recovery, or recapture device, or the flow indicator specified in § 63.1429(c)(1) was not operating.

(4) Except as specified in paragraph (d)(6) of this section, where a seal or closure mechanism is used to comply with the process vent monitoring requirements for bypass lines in § 63.1429(c)(2), hourly records of flow are not required. For compliance with § 63.1429(c)(2), the owner or operator shall record whether the monthly visual inspection of the seals or closure mechanism has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type configuration has been checked out, and records of any car-seal that has been broken.

(5) Records specifying the times and duration of periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high level adjustments. In addition, records specifying any other periods of process or combustion, recovery, or recapture device operation when monitors are not operating.

(6) For each flow event from a bypass line subject to the requirements in § 63.1429(c), beginning no later than the compliance dates specified in § 63.1422(h), the owner or operator shall maintain records sufficient to determine whether or not the detected flow included flow requiring control. For each flow event from a bypass line requiring control that is released either directly to the atmosphere or to a

control device not meeting the requirements in this subpart, the owner or operator shall include an estimate of the volume of gas, the concentration of organic HAP in the gas, and the resulting emissions of organic HAP that bypassed the control device using process knowledge and engineering estimates.

(7) For process vents in ethylene oxide service subject to the requirements of § 63.1426(g), owners and operators shall keep the records specified in paragraphs (d)(7)(i) and (ii) of this section in addition to those records specified elsewhere in this section.

(i) For process vents, include all uncontrolled, undiluted ethylene oxide concentration measurements, and the calculations used to determine the total uncontrolled ethylene oxide mass emissions rate for the sum of all vent gas streams.

(ii) If emissions are vented through a closed vent system to a non-flare control device, then the owner or operator shall keep records of all periods during which operating values are outside of the applicable operating limits specified in § 63.124(b)(4) through (6) when regulated material is being routed to the non-flare control device. The record shall specify the identification of the control device, the operating parameter, the applicable limit, and the highest (for maximum operating limits) or lowest (for minimum operating limits) value recorded during the period.

(e) *Records related to the group determination for process vents that are associated with the use of nonepoxide organic HAP to make or modify the product—*

(1) *Process vents from batch unit operations.* Except as provided in paragraphs (e)(1)(vi) and (vii) of this section, the owner or operator of an affected source shall maintain the records specified in paragraphs (e)(1)(i) through (v) of this section for each PMPU that uses a nonepoxide organic HAP to make or modify the product in batch unit operations. The records required to be maintained by this paragraph are limited to the information developed and used to make the group determination under the process vent requirements for processes using a nonepoxide organic HAP to make or modify the product in § 63.1428(a) through (e), as appropriate. If an owner or operator did not need to develop certain information (e.g., annual average flow rate) to determine the group status, the owner or operator is not required to develop additional information. The owner or operator may elect Group 1 status for process vents without making

a Group 1/Group 2 determination. In such event, none of the records specified in paragraphs (e)(1)(i) through (v) are required.

(i) A description of, and an emission estimate for, each batch emission episode, and the total emissions associated with one batch cycle for each unique product class made in the PMPU.

(ii) Total annual uncontrolled TOC or nonepoxide organic HAP emissions from the combination of process vents from batch unit operations associated with the use of nonepoxide organic HAP to make or modify the product, as determined in accordance with the process vent requirements for group determinations in § 63.1428(b).

(iii) The annual average flow rate for the combination of process vents from batch unit operations associated with the use of organic HAP to make or modify the product, as determined in accordance with the process vent requirements for group determinations in § 63.1428(d).

(iv) The cutoff flow rate, determined in accordance with the process vent requirements for group determinations in § 63.1428(e).

(v) The results of the PMPU group determination (*i.e.*, whether the combination of process vents is Group 1 or Group 2).

(vi) If the combination of all process vents from batch unit operations associated with the use of an organic HAP to make or modify the product is subject to the Group 1 batch process vent control requirements for nonepoxide HAP emissions from making or modifying the product in § 63.1425(c)(1), none of the records in paragraphs (e)(1)(i) through (v) of this section are required.

(vii) If the total annual emissions from the combination of process vents from batch unit operations associated with the use of an organic HAP to make or modify the product are less than the thresholds specified in the definition of Group 1 combination of batch process vents in § 63.1423, only the records in paragraphs (e)(1)(i) and (ii) of this section are required.

(2) *Process vents from continuous unit operations.* The owner or operator of an affected source that uses nonepoxide organic HAP to make or modify the product in continuous unit operations shall keep records regarding the measurements and calculations performed to determine the TRE index value of each process vent stream. The owner or operator of Group 1 continuous process vents that are subject to the control requirements of

§ 63.1425(c)(3) is not required to keep these records.

(f) *Records for Group 2 process vents that are associated with the use of nonepoxide organic HAP to make or modify the product.* The following records shall be maintained for PMPUs with a Group 2 combination of batch process vents and/or one or more Group 2 continuous process vents.

(1) *Process vents from batch unit operations—emission records.* The owner or operator shall maintain records of the combined total annual nonepoxide organic HAP emissions from process vents associated with the use of nonepoxide organic HAP to make or modify the product for each PMPU where the combination of these process vents is classified as Group 2.

(2) *Process vents from continuous unit operations—monitoring records for vents with TRE between 1.0 and 4.0.* The owner or operator using a recovery device or other means to achieve and maintain a TRE index value greater than 1.0 but less than 4.0 as specified in the HON process vent requirements in § 63.113(a)(3) or (d) shall keep the following records readily accessible:

(i) Continuous records of the equipment operating parameters specified to be monitored under § 63.114(b) and listed in table 5 to this subpart or specified by the Administrator in accordance with §§ 63.114(c) and 63.117(e); and

(ii) Records of the daily average value of each continuously monitored parameter for each operating day determined according to the procedures specified in § 63.152(f). If carbon adsorber regeneration stream flow and carbon bed regeneration temperature are monitored, the records specified in table 5 to this subpart shall be kept instead of the daily averages.

(3) *Process vents from continuous unit operations—records related to process changes.* The owner or operator subject to the provisions of this subpart who has elected to demonstrate compliance with the TRE index value greater than 4.0 under § 63.113(e) or greater than 1.0 under § 63.113(a)(3) or (d) shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e); and

(ii) Any recalculation of the TRE index value pursuant to § 63.115(e).

(4) *Process vents from continuous unit operations—records for vents with a flow rate less than 0.005 standard cubic meter per minute.* The owner or operator who elects to comply by maintaining a flow rate less than 0.005 standard cubic meter per minute under § 63.113(f), shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e) that increase the process vent stream flow rate;

(ii) Any recalculation or measurement of the flow rate pursuant to § 63.115(e); and

(iii) If the flow rate increases to 0.005 standard cubic meter per minute or greater as a result of the process change, the TRE determination performed according to the procedures of § 63.115(d).

(5) *Process vents from continuous unit operations—records for vents with an organic HAP concentration less than 50 parts per million.* The owner or operator who elects to comply by maintaining an organic HAP concentration less than 50 parts per million by volume organic HAP concentration under § 63.113(g) shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e) that increase the organic HAP concentration of the process vent stream;

(ii) Any recalculation or measurement of the concentration pursuant to § 63.115(e); and

(iii) If the organic HAP concentration increases to 50 parts per million by volume or greater as a result of the process change, the TRE determination performed according to the procedures of § 63.115(d).

(g) *Notification of Compliance Status.* The owner or operator of an affected source shall submit the information specified in paragraphs (g)(1) through (3) of this section, as appropriate, as part of the Notification of Compliance Status specified in § 63.1439(e)(5).

(1) For the owner or operator complying with the process vent control requirements in § 63.1425(b), (c)(1), (c)(3), or (d), the information specified in paragraph (b) of this section related to the compliance demonstration, and the information specified in paragraph (c) of this section related to the establishment of parameter monitoring levels,

(2) For each PMPU where the combination of process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify the product is Group 2, the information related to the group determination specified in paragraph (e)(1) of this section.

(3) For each process vent from a continuous unit operation that is associated with the use of nonepoxide organic HAP to make or modify the product that is Group 2, the information related to the group determination specified in paragraph (e)(2) of this section.

(h) *Periodic Reports.* The owner or operator of an affected source shall

submit Periodic Reports of the recorded information specified in paragraphs (h)(1) through (9) of this section, as appropriate, according to the schedule for submitting Periodic Reports in § 63.1439(e)(6)(i).

(1) Reports of daily average values of monitored parameters for all operating days when the daily average values recorded under paragraph (d)(2) of this section were above the maximum, or below the minimum, level established in the Notification of Compliance Status or operating permit.

(2) Reports of the duration of periods when monitoring data are not collected for each excursion caused by insufficient monitoring data as defined in § 63.1438(f)(1)(iv), (f)(2)(i)(B), or (f)(3)(ii).

(3) Reports of the times and durations of all periods recorded under paragraph (d)(3) of this section when the process vent stream is diverted from the combustion, recovery, or recapture device through a bypass line and if applicable, the information in paragraph (h)(7) of this section. Include the start date, start time, and duration in hours of each period.

(4) Reports of all periods recorded under paragraph (d)(4) of this section in which the seal mechanism is broken, the bypass line valve position has changed, or the key to unlock the bypass line valve was checked out and if applicable, the information in paragraph (h)(7) of this section. Include the start date, start time, and duration in hours of each period.

(5) Except as specified in § 63.1436(a), reports of the times and durations of all periods recorded under paragraph (d)(1)(i) of this section in which all pilot flames of a flare were absent. Include the start date, start time, and duration in hours of each period.

(6) Reports of all carbon bed regeneration cycles during which the parameters recorded under paragraph (d)(1)(ii) of this section were above the maximum, or below the minimum, levels established in the Notification of Compliance Status or operating permit. Include the identification of the carbon bed, the monitored parameter that was outside the established range, and the start date, start time, and duration in hours of the regeneration cycle.

(7) Beginning no later than the compliance dates specified in § 63.1422(h), the owner or operator shall comply with this paragraph (h)(7) in addition to the requirements in paragraphs (h)(3) and (4) of this section. For bypass lines subject to the requirements in § 63.1429(c), the Periodic Report shall include the start date, start time, duration in hours,

estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume, and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours.

(8) For process vents in ethylene oxide service subject to the requirements of § 63.1426(g), the Periodic Report shall include the records for periods specified in paragraph (d)(7)(ii) of this section. Indicate the start date and time and end date and time for each period.

(9) For any maintenance vent release exceeding the applicable limits in § 63.1425(h)(1), the Periodic Report shall include the information specified in paragraphs (h)(9)(i) through (iv) of this section. For the purposes of this reporting requirement, if an owner or operator complies with § 63.1425(h)(1)(iv), then the owner or operator shall report each venting event conducted under those provisions and include an explanation for each event as to why utilization of this alternative was required.

(i) Identification of the maintenance vent and the equipment served by the maintenance vent.

(ii) The date and time the maintenance vent was opened to the atmosphere.

(iii) The LEL in percent, vessel pressure in psig, or mass in pounds of VOC in the equipment, as applicable, at the start of atmospheric venting. If the 5-psig vessel pressure option in § 63.1425(h)(1)(ii) was used and active purging was initiated while the concentration of the vapor was 10 percent or greater of its LEL, also include the concentration of the vapors at the time active purging was initiated.

(iv) An estimate of the mass in pounds of organic HAP released during the entire atmospheric venting event.

(i) *Reports of process changes.*

Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 combination of batch process vents at a PMPU that are associated with the use of nonepoxide organic HAP to make or modify the product to become Group 1, the owner or operator shall submit a report within 180 days after the process change is made or the information regarding the process change is known to the owner or operator. This report may be included in the next Periodic Report or in a separate submittal to the Administrator, as specified in § 63.1439(e)(6)(iii)(D)(1). A description of the process change shall be submitted with the report.

(j) *Reporting requirements for Group 2 continuous process vents.* (1) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with a TRE greater than 4.0 to become a Group 2 continuous process vent with a TRE less than 4.0, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the process change is known, unless the flow rate is less than 0.005 standard cubic meters per minute. The report may be submitted as part of the next periodic report. The report shall include:

(i) A description of the process change;

(ii) The results of the recalculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and

(iii) A statement that the owner or operator will comply with the process vent monitoring requirements specified in § 63.1429, as appropriate.

(2) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with a flow rate less than 0.005 standard cubic meters per minute to become a Group 2 continuous process vent with a flow rate of 0.005 standard cubic meters per minute or greater, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the process change is known, unless the organic HAP concentration is less than 50 ppmv. The report may be submitted as part of the next periodic report. The report shall include:

(i) A description of the process change;

(ii) The results of the calculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and

(iii) A statement that the owner or operator will comply with the process vent monitoring requirements specified in § 63.1429, as appropriate.

(3) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with an organic HAP concentration less than 50 ppmv to become a Group 2 continuous process vent with an organic HAP concentration of 50 ppmv or greater and a TRE index value less than 4.0, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the process change is known, unless the flow rate is less than 0.005 standard cubic meters per minute. The report may be

submitted as part of the next periodic report. The report shall include:

- (i) A description of the process change;
 - (ii) The results of the calculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and
 - (iii) A statement that the owner or operator will comply with the process vent monitoring requirements specified in § 63.1429, as appropriate.
- (k) *Alternative requests.* If an owner or operator uses a combustion, recovery, or recapture device other than those specified in the process vent monitoring requirements in § 63.1429(a)(1) through (7) and listed in table 5 or 6 to this

subpart; requests approval to monitor a parameter other than those specified in § 63.1429(a)(1) through (7) and listed in table 5 or 6 to this subpart; or uses ECO and requests to monitor a parameter other than those listed in § 63.1427(i)(1)(i) through (iii), as allowed under § 63.1427(i)(1)(iv), the owner or operator shall submit a description of planned reporting and recordkeeping procedures, as specified in § 63.1439(f)(3), as part of the Precompliance Report as required under § 63.1439(e)(4), or to the Administrator as a separate submittal. The Administrator will specify appropriate reporting and recordkeeping

requirements as part of the review of the Precompliance Report.

- 14. Amend § 63.1431 by revising paragraphs (c)(1)(iii) and (c)(2) to read as follows:

§ 63.1431 Process vent annual epoxides emission factor plan requirements.

* * * *

(c) * * *

(1) * * *

(iii) Annual emissions after the combustion, recovery, or recapture device. The expected annual emissions after control shall be determined using the following equation:

Equation 1 to Paragraph (c)(1)(iii)

$$AE_{\text{control}} = (AE_{\text{uncontrolled}}) \left[\left(1 - \frac{R}{100} \right) \right] \quad [\text{Equation 15}]$$

Where:

AE_{control} = Annual epoxide emissions after control, kg/yr.

$AE_{\text{uncontrolled}}$ = Annual uncontrolled epoxide emissions, determined in accordance with paragraph (c)(1)(i) of this section, kg/yr.

R = Expected control efficiency of the combustion, recovery, or recapture device, percent, as determined in § 63.1426(c).

* * * *

(2) The owner or operator shall conduct a performance test in accordance with § 63.1426(c) to determine the epoxide control efficiency of the combustion, recovery, or recapture device. The owner or operator shall then recalculate the annual epoxide emissions after control using Equation 1 to Paragraph (c)(1)(iii) of this section, except that the control efficiency, R, shall be the measured control efficiency. This information shall be submitted as part of the Notification of Compliance Status, as provided in § 63.1439(e)(5).

* * * *

- 15. Amend § 63.1432 by revising paragraph (a), and adding paragraphs (r) through (w) to read as follows:

§ 63.1432 Storage vessel provisions.

(a) For each storage vessel located at an affected source, the owner or operator shall comply with the HON storage vessel requirements of §§ 63.119 through 63.123 and the HON leak inspection provisions in § 63.148, with the differences noted in paragraphs (b) through (q) of this section and, beginning March 18, 2026, paragraphs (r) through (w) of this section, for the purposes of this subpart.

* * * *

(r) Substitute “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),” for each occurrence of “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(10),”. Owners and operators of a storage vessel with an internal floating roof subject to § 63.119(b)(5)(ix), (x), (xi), and (xii) in accordance with this paragraph may install the required upgraded deck fittings and controls for guidepoles the next time the storage vessel is emptied and degassed, or no later than March 18, 2036.

(s) For storage vessels in ethylene oxide service:

(1) Substitute “in ethylene oxide service, as defined in § 63.101” with “in ethylene oxide service, as defined in § 63.1423”.

(2) Substitute “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),” for each occurrence of “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(11),”.

(3) To demonstrate compliance for storage vessels in ethylene oxide service, as defined in § 63.1423, and establish the parameter monitoring level(s), owners or operators shall meet the requirements in § 63.124 (in addition to the HON storage vessel requirements specified in this section), except as specified in paragraphs (s)(3)(i) and (ii) of this section.

(i) Substitute “§ 63.100(k)(11)” with “§ 63.1422(h)”.

(ii) Substitute “§ 63.108” with “§ 63.1436”.

(t) Substitute “§ 63.1420(h)(4)” for each occurrence of “§ 63.102(f) of subpart F of this part”.

(u) Substitute “§ 63.1436” for each occurrence of “§ 63.108”.

(v) The phrase “, and PRDs in ethylene oxide service,” in § 63.119(a)(7)(ii) does not apply for purposes of this subpart.

(w) Section 63.119(b)(7) does not apply.

- 16. Amend § 63.1433 by revising paragraph (a) introductory text and paragraph (a)(1), and adding paragraphs (a)(21) through (26) to read as follows:

§ 63.1433 Wastewater provisions.

(a) *Process wastewater.* Except as specified in paragraph (c) of this section, the owner or operator of each affected source shall comply with the HON wastewater requirements in §§ 63.132 through 63.147 for each process wastewater stream originating at an affected source, with the HON leak inspection requirements in § 63.148, and with the HON requirements in § 63.149 for equipment that is subject to § 63.149, with the differences noted in paragraphs (a)(1) through (20) of this section and, beginning March 18, 2026, paragraphs (a)(21) through (26) of this section. Further, the owner or operator of each affected source shall comply with the requirements of § 63.105(a) for maintenance wastewater, as specified in paragraph (b) of this section.

(1) Owners and operators of affected sources are not required to comply with the HON new source wastewater requirements in § 63.132(b)(1) and (d) for the purposes of this subpart. Owners or operators of all new affected sources, as defined in this subpart, shall comply with the HON requirements for existing

sources in §§ 63.132 through 63.149, with the exceptions noted in paragraphs (a)(2) through (26) of this section.

* * * * *

(21) Substitute “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(10),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(22) Substitute “pressure relief devices are subject to the requirements specified in § 63.165(e) of subpart H of this part” with “pressure relief devices are subject to the requirements specified in § 63.1434(c)”.

(23) For wastewater in ethylene oxide service:

(i) Substitute “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(11),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(ii) Substitute “in ethylene oxide service, as defined in § 63.101” with “in ethylene oxide service, as defined in § 63.1423”.

(iii) § 63.138(b)(3) and (c)(3) do not apply. Instead, for each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), for Group 1 wastewater streams in ethylene oxide service, you must comply with one of the treatment options specified in paragraph (a)(23)(iii)(A), (B), or (C) of this section in addition to the control device requirements specified in § 63.138(a)(5). Individual wastewater streams may be excluded from this requirement if their combined ethylene oxide load in the wastewater prior to treatment is less than 1.0 megagram per year, provided you comply with paragraph (a)(23)(iii)(D) of this section.

(A) Reduce the concentration of ethylene oxide of each wastewater stream, by removal or destruction, to a level less than 1 ppmw. If you choose to comply with this paragraph (a)(23)(iii)(A) of this section, then you must demonstrate compliance using procedures specified in § 63.145(b), except the parenthetical sentence at the end of § 63.145(b) does not apply, and when “§ 63.138(b)(1) and § 63.138(c)(1)” are referred to in § 63.145(b), it means this paragraph (a)(23)(iii)(A) of this section.

(B) Comply with § 63.138(d). If you choose to comply with this paragraph (a)(23)(iii)(B) of this section, then neither a design evaluation nor a performance test is required in accordance with § 63.145(a)(1).

(C) Comply with § 63.138(e). You may not use a design evaluation as specified in § 63.145(a)(2) to demonstrate compliance with this paragraph (a)(23)(iii)(C) of this section. Instead, to demonstrate compliance with this paragraph (a)(23)(iii)(C) of this section, you must conduct a performance test as specified in § 63.145(c) or (d).

(D) If you exclude individual wastewater streams from compliance with paragraph (a)(23)(iii) of this section based on combined ethylene oxide load prior to treatment, then you must conduct annual sampling of each wastewater stream using the procedures specified in §§ 63.144(b)(5)(i)(I) and 63.145(b), except the parenthetical sentence at the end of § 63.145(b) does not apply and when “§ 63.138(b)(1) and § 63.138(c)(1)” are referred to in § 63.145(b), it means this paragraph (a)(23)(iii)(D) of this section.

(24) Substitute “For each source as defined in § 63.101,” with “For each affected source as described in § 63.1420(a),”.

(25) Substitute “§ 63.108” with “§ 63.1436”.

(26) Substitute “Except for pressure relief devices subject to § 63.165(e)(4),” with “Except for pressure relief devices subject to § 63.1434(c),”.

* * * * *

■ 17. Amend § 63.1434 by revising the section heading, paragraphs (a), (b), and (f), and adding paragraph (i) to read as follows:

§ 63.1434 Equipment leak and transfer rack provisions.

(a) The owner or operator of each affected source shall comply with the HON equipment leak requirements in 40 CFR part 63, subpart H for all equipment in organic HAP service, except §§ 63.165 and 63.184, any recordkeeping and reporting related to §§ 63.165 and 63.184, as specified in paragraphs (b) through (h) of this section, and beginning March 18, 2026, as specified in paragraphs (a)(1) through (7) of this section.

(1) Substitute “For each source as defined in § 63.101, and for each source as defined in § 63.191, on and after July 15, 2027,” with “For each affected source as described in § 63.1420(a), on and after March 18, 2029,”.

(2) Except as specified in paragraph (a)(7) of this section, substitute “For each source as defined in § 63.101, and for each source as defined in § 63.191, beginning no later than the compliance dates specified in § 63.100(k)(10),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(3) For equipment in ethylene oxide service:

(i) Substitute “in ethylene oxide service, as defined in § 63.101” with “in ethylene oxide service, as defined in § 63.1423”.

(ii) Substitute “For each source as defined in § 63.101, and for each source as defined in § 63.191, beginning no later than the compliance dates specified in § 63.100(k)(11),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(iii) Except as specified in paragraph (a)(3)(iv)(B) of this section, if § 63.174(b)(3)(vi) refers to “once every month,” then substitute it for “once every quarter;” otherwise, § 63.174(b)(3)(vi) applies as written.

(iv) § 63.171 does not apply for light liquid pumps in ethylene oxide service, gas/vapor and light liquid valves in ethylene oxide service, and gas/vapor and light liquid connectors in ethylene oxide service. Instead, when leaks have been detected, delay of repair beyond 15 days is allowed if you meet the requirements in paragraphs (a)(3)(iv)(A) and (B) of this section, or paragraph (a)(3)(iv)(C) of this section.

(A) For PMPUs with less than 5,000 pieces of equipment in ethylene oxide service, you may have no more than 5 pieces of equipment in ethylene oxide service on delay of repair at a given time. For PMPUs with more than 5,000 pieces of equipment in ethylene oxide service, you may have no more than 0.1-percent of equipment in ethylene oxide service on delay of repair at a given time.

(B) Equipment in ethylene oxide service that is on delay of repair must be monitored monthly, following the monitoring requirements at § 63.180(b), and the instrument reading must not indicate that a delay of repair leak is detected. A delay of repair leak is defined as an instrument reading of 1,000 parts per million or greater. If a delay of repair leak is detected, then the delay of repair provisions no longer apply and the leak must be fixed no later than 15 calendar days after the delay of repair leak is detected.

(C) Delay of repair of equipment for which leaks have been detected is allowed for equipment that is isolated from the process and that does not remain in ethylene oxide service. Equipment that is isolated from the process is not applicable to the requirements in paragraphs (a)(3)(iv)(A) and (B) of this section.

(4) Substitute “Except for pressure relief devices subject to § 63.165(e)(4),”

with “Except for pressure relief devices subject to paragraph (c) of this section.”.

(5) Substitute “§ 63.108” with “§ 63.1436”.

(6) For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), the requirements specified in § 63.168(b)(2)(i) through (iii) for valves that are either in gas service or in light liquid service no longer apply. Instead, for valves that are either in gas service or in light liquid service, a leak is detected if the instrument reading equals or exceeds 100 ppmv.

(7) Beginning no later than the compliance dates specified in § 63.1422(h), § 63.170 no longer applies. Instead, if a gaseous emission stream from a surge control vessel or bottoms receiver is considered a process vent as defined in § 63.1423, you must comply with either paragraph (a)(7)(i) or (ii) of this section.

(i) Route the organic vapors vented from the surge control vessel or bottoms receiver to a fuel gas system or process with a closed vent system meeting the requirements in § 63.119(f); or

(ii) Comply with § 63.1425 through 63.1431, as applicable.

(b) Except as specified in paragraphs (a)(1) through (3) and (a)(6) and (7) of this section, the compliance date for the equipment leak provisions in this section is provided in § 63.1422(d).

* * * * *

(f) The Periodic Reports required by § 63.182(a)(3) and (d) shall be submitted as part of the Periodic Reports required by § 63.1439(e)(6).

* * * * *

(i) For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), the owner or operator of each transfer rack that does not meet the criteria specified in § 63.1420(c)(10) or (11) shall comply with the HON transfer rack requirements in §§ 63.126 through 63.130 and the HON leak inspection provisions in § 63.148, with the differences noted in paragraphs (i)(1) through (13) of this section.

(1) When the term “Group 1 transfer rack” is used in §§ 63.126 through 63.130, the definition of this term in § 63.1423 shall apply for the purposes of this subpart.

(2) When the term “Group 2 transfer rack” is used in §§ 63.126 through 63.130, the definition of this term in § 63.1423 shall apply for the purposes of this subpart.

(3) When “organic hazardous air pollutants,” “organic HAP’s,” or

“organic HAP” are used in §§ 63.126 through 63.130, the definition of “Organic hazardous air pollutant(s) (organic HAP)” shall apply for the purposes of this subpart.

(4) Sections 63.126(d) and (h)(1), and 63.128(d) do not apply.

(5) The phrase “subject to this subpart” means 40 CFR part 63, subpart PPP.

(6) When the term “range” is used in §§ 63.126 through 63.130, the term “level” shall be used instead, for the purposes of this subpart. This level shall be determined using the procedures specified in parameter monitoring procedures in § 63.1438.

(7) The owner or operator of an affected source shall comply with this paragraph (i)(7) instead of § 63.128(a)(1) for the purposes of this subpart. If the combustion, recovery, or recapture device used to comply with § 63.126(b) is also used to comply with any of the requirements found in §§ 63.1425 through 63.1431 and/or § 63.1433, the performance test required in or accepted by §§ 63.1425 through 63.1431 and/or § 63.1433 is acceptable for demonstrating compliance with § 63.126(b), for the purposes of this subpart.

(8) When § 63.152(b) is referred to in §§ 63.127, 63.128, and 63.129, the Notification of Compliance Status requirements contained in § 63.1439(e)(5) shall apply for the purposes of this subpart.

(9) When § 63.152(c) is referred to in §§ 63.128, 63.129, and 63.130, the Periodic Report requirements contained in § 63.1439(e)(6) shall apply for the purposes of this subpart.

(10) Substitute “For each source as defined in § 63.101, on and after July 15, 2027,” with “For each affected source as described in § 63.1420(a), on and after March 18, 2029,”.

(11) Substitute “For each source as defined in § 63.101, beginning no later than the compliance dates specified in § 63.100(k)(10),” with “For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h),”.

(12) Substitute “Beginning no later than the compliance dates specified in § 63.100(k)(10),” with “Beginning no later than the compliance dates specified in § 63.1422(h),”.

(13) Substitute “§ 63.108” with “§ 63.1436”.

■ 18. Amend § 63.1435 by revising paragraph (a) and adding paragraphs (f) through (i) to read as follows:

§ 63.1435 Heat exchanger provisions.

(a) The owner or operator of each affected source shall comply with the

requirements of § 63.104 for heat exchange systems, with the exceptions noted in paragraphs (b) through (e) of this section and, beginning March 18, 2026, in paragraphs (f) through (i) of this section.

* * * * *

(f) Substitute “For each source as defined in § 63.101,” with “For each affected source as described in § 63.1420(a),”.

(g) Substitute “beginning no later than the compliance dates specified in § 63.100(k)(10)” with “beginning no later than the compliance dates specified in § 63.1422(h).”

(h) If an owner or operator complies with § 63.104(g), then § 63.104(b) through (e) no longer apply.

(i) For heat exchange systems in ethylene oxide service:

(1) Substitute “in ethylene oxide service, as defined in § 63.101” with “in ethylene oxide service, as defined in § 63.1423”.

(2) § 63.104(g)(6) does not apply. Instead, for heat exchange systems in ethylene oxide service, the monitoring frequency is monthly.

(3) § 63.104(h)(6) does not apply. Instead, for heat exchange systems in ethylene oxide service, owners and operators must repair the leak to reduce the concentration or mass emissions rate to below the applicable leak action level as soon as practicable, but no later than 45 days after the sample was collected.

(4) Section 63.104(k) does not apply. Instead for each source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), owners and operators must not inject water into or dispose of water through any heat exchange system in a PMPU if the water contains any amount of ethylene oxide, has been in contact with any process stream containing ethylene oxide, or is considered wastewater as defined in § 63.1423.

■ 19. Revise § 63.1436 to read as follows:

§ 63.1436 Flares.

(a) For any flare that is used to reduce organic HAP emissions from a PMPU, the owner or operator may elect to comply with the requirements in this section in lieu of the requirements of § 63.11(b) and the requirements referenced therein. However, beginning no later than the compliance dates specified in § 63.1422(h), the provisions specified in paragraphs (a)(1) through (25) of this section no longer apply. Instead, if an owner or operator reduces organic HAP emissions from a PMPU by venting emissions through a closed vent system to a steam-assisted, air-assisted,

or non-assisted flare, then the owner or operator must meet the applicable requirements for flares as specified in §§ 63.670 and 63.671, including the provisions in tables 12 and 13 to subpart CC of this part, except as specified in paragraph (b) of this section. This requirement also applies to any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from a PMPU, as determined on an annual average basis. For purposes of compliance with this paragraph, the following terms are defined in § 63.641: Assist air, assist steam, center steam, combustion zone, combustion zone gas, flare, flare purge gas, flare supplemental gas, flare sweep gas, flare vent gas, lower steam, net heating value, perimeter assist air, pilot gas, premix assist air, total steam, and upper steam.

- (1) Section 63.1426(a)(1);
- (2) Section 63.1429(a)(2);
- (3) Section 63.1437(c)(1) through (3);
- (4) Section 63.107(h)(9)(i) related to criteria in § 63.11(b);
- (5) Section 63.113(a)(1);
- (6) Section 63.114(a)(2);
- (7) Section 63.116(a)(1) through (3);
- (8) Section 63.117(a)(5)(i) through (iii);
- (9) Section 63.118(f)(5);
- (10) The last sentence in § 63.119(e)(1) related to flares;
- (11) Section 63.120(e)(1) through (6);
- (12) Section 63.122(c)(2) and (g)(3);
- (13) Section 63.126(b)(2)(i);
- (14) Section 63.127(a)(2);
- (15) Section 63.128(b)(1) through (3);
- (16) Section 63.129(a)(5)(i) through (iii);
- (17) Section 63.130(a)(2)(i), (c), and (d)(5);
- (18) Section 63.139(c)(3) and (d)(3);
- (19) Section 63.145(j)(1) through (3);
- (20) Section 63.146(b)(7)(i)(A) through (C);
- (21) Section 63.147(d)(1);
- (22) Section 63.172(d);
- (23) Section 63.180(e)(1) through (3);
- (24) Section 63.181(g)(1)(iii); and
- (25) The phrase “including periods when a flare pilot light system does not have a flame” in § 63.181(g)(2)(i).

(b) The exceptions specified in § 63.108(b) through (o) apply, except as specified in paragraphs (b)(1) through (7) of this section.

(1) Where the term “chemical manufacturing process unit” is used, the term “PMPU” applies instead for the purposes of this subpart.

(2) Where the reference “§ 63.100(k)(10)” is used, the reference § 63.1422(h) applies instead for the purposes of this subpart.

(3) Where the phrase “Hazardous Organic Chemical Manufacturing Sector

Lead” is used, the phrase “Polyether Polyols Sector Lead” applies instead for the purposes of this subpart.

(4) Where the reference “§ 63.152(b)(7)” is used, the reference “§ 63.1439(e)(5)(ix)” applies instead for the purposes of this subpart.

(5) Instead of the address given in § 63.108(n), the address to submit the alternative means of limitation request is U.S. EPA, Attn: Polyether Polyols Sector Lead, Mail Drop: E143–01, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, NC 27711.

(6) When requesting an alternative under 63.1426(a)(2) in accordance with § 63.670(r), substitute “the flare achieves 96.5 percent combustion efficiency (or 98 percent destruction efficiency)” with “the flare achieves a control efficiency greater than 98 percent”.

(7) Section 63.670(o)(2) does not apply. Instead, flare management plans must be submitted to the Administrator in a supplement to the Notification of Compliance Status report in accordance with § 63.1439(e)(5). The plan should be updated periodically to account for changes in the operation of the flare, such as new connections to the flare or the installation of a flare gas recovery system, but the plan needs to be re-submitted to the Administrator only if the owner or operator alters the design smokeless capacity of the flare. The owner or operator must comply with the updated plan as submitted.

■ 20. Amend § 63.1437 by revising introductory text of paragraphs (a) and (c), and adding paragraph (c)(4) to read as follows:

§ 63.1437 Additional requirements for performance testing.

(a) Initial and subsequent performance testing shall be conducted in accordance with § 63.7(a)(1), (a)(3), (d), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraphs (a)(1) through (4) of this section and the additions specified in paragraph (b) of this section. If a performance test has never been conducted, conduct an initial performance test no later than the compliance dates specified in § 63.1422(h). Beginning no later than the compliance dates specified in § 63.1422(h), conduct subsequent performance tests no later than the compliance dates specified in § 63.1422(h) or 60 calendar months after the previous performance test, whichever is later. Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being

tested. Representative conditions exclude periods of start-up and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emissions if such emissions are not expected during maximum production. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(c) Notwithstanding any other provision of this subpart, if an owner or operator of an affected source uses a flare to comply with any of the requirements of this subpart, the owner or operator shall comply with paragraphs (c)(1) through (3) of this section, except as specified in paragraph (c)(4) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration. If a compliance demonstration has been conducted previously for a flare, using the techniques specified in paragraphs (c)(1) through (3) of this section, that compliance demonstration may be used to satisfy the requirements of this paragraph if either no deliberate process changes have been made since the compliance demonstration, or the results of the compliance demonstration reliably demonstrate compliance despite process changes.

* * * * *

(4) For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), paragraphs (c)(1) through (3) of this section no longer apply and instead the owner or operator of the affected source shall comply with § 63.1436 for the flare.

■ 21. Amend § 63.1438 by revising paragraph (a) introductory text, paragraphs (a)(3), (b)(2), (f)(1)(i), and (f)(3)(i) to read as follows:

§ 63.1438 Parameter monitoring levels and excursions.

(a) *Establishment of parameter monitoring levels.* The owner or operator of a combustion, recovery, or recapture device that has one or more parameter monitoring level

requirements specified under this subpart shall establish a maximum or minimum level for each measured parameter. Except for process vents and storage vessels in ethylene oxide service subject to §§ 63.1426(g) and 63.1432(s), if a performance test is required by this subpart for a combustion, recovery, or recapture device, the owner or operator shall use the procedures in either paragraph (b) or (c) of this section to establish the parameter monitoring level(s). For process vents and storage vessels in ethylene oxide service subject to §§ 63.1426(g) and 63.1432(s), the owner or operator shall use the procedures specified in § 63.124 to establish the parameter monitoring level(s). Except for flares subject to § 63.1436, if a performance test is not required by this subpart for a combustion, recovery, or recapture device, the owner or operator may use the procedures in paragraph (b), (c), or (d) of this section to establish the parameter monitoring levels. For flares subject to § 63.1436, the owner or operator shall use the procedures specified in § 63.1436 to establish the parameter monitoring levels. When using the procedures specified in paragraph (c) or (d) of this section, the owner or operator shall submit the information specified in § 63.1439(e)(4)(viii) for review and approval, as part of the Precompliance Report.

* * * * *

(3) Nothing in this section shall be construed to allow a monitoring parameter excursion caused by an activity that violates other applicable provisions of 40 CFR part 63, subparts A, F, G, H, or CC.

(b) * * *

(2) *Process vents from batch unit operations.* For process vents from batch unit operations, during initial compliance testing, the appropriate parameter shall be monitored continuously during the entire test period. The monitoring level(s) shall be those established during the compliance test.

* * * * *

(f) * * *

(1) * * *

(i) The daily average value of one or more monitored parameters is above the maximum level or below the minimum level established for the given parameters or, for parameters used to comply with § 63.1425(g) or 63.1432(s)(3), when the 1-hour block average value of one or more monitored parameters is above the maximum level

or below the minimum level established for the given parameters.

* * * * *

(3) * * *

(i) When the daily average value of one or more monitored parameters is above the maximum or below the minimum established level for the given parameters or, for parameters used to comply with § 63.1425(g) or 63.1432(s)(3), when the 1-hour block average value of one or more monitored parameters is above the maximum level or below the minimum level established for the given parameters.

* * * * *

■ 22. Revise § 63.1439 to read as follows:

§ 63.1439 General recordkeeping and reporting provisions.

(a) *Data retention.* Unless otherwise specified in this subpart, the owner or operator of an affected source shall keep copies of all applicable records and reports required by this subpart for at least 5 years. All applicable records shall be maintained in such a manner that they can be readily accessed. The most recent 6 months of records shall be retained on site or shall be accessible from a central location by computer or other means that provide access within 2 hours after a request. The remaining 4 and one-half years of records may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on microfilm, computer, floppy disk, magnetic tape, or microfiche. Before May 18, 2026, if an owner or operator submits copies of reports to the applicable EPA Regional Office, the owner or operator is not required to maintain copies of reports. Before May 18, 2026, if the EPA Regional Office has waived the requirement of § 63.10(a)(4)(ii) for submittal of copies of reports, the owner or operator is not required to maintain copies of reports.

(b) *Subpart A requirements.* The owner or operator of an affected source shall comply with the applicable recordkeeping and reporting requirements in 40 CFR part 63, subpart A (the General Provisions) as specified in table 1 of this subpart. These requirements include, but are not limited to, the requirements specified in paragraphs (b)(1) and (2) of this section.

(1) *Malfunction recordkeeping and reporting.* Before March 18, 2029, keep the records and report events as specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) *Records of malfunctions.* The owner or operator shall keep the records specified in paragraphs (b)(1)(i)(A) through (C) of this section.

(A) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(B) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(C) Record actions taken to minimize emissions in accordance with § 63.1420(h)(4), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(ii) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time, and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(2) *Application for approval of construction or reconstruction.* For new affected sources, the owner or operator shall comply with the General Provisions' requirements for the application for approval of construction or reconstruction, as specified in § 63.5, excluding the provisions specified in § 63.5(d)(1)(ii)(H), (d)(1)(iii), (d)(2), and (d)(3)(ii).

(c) *Subpart H requirements.* The owner or operator of an affected source shall comply with the HON equipment leak reporting and recordkeeping requirements in subpart H of this part, except as specified in § 63.1434(a) through (h). Additionally, for equipment in ethylene oxide service, the owner or operator shall keep a count of the equipment in ethylene oxide service and records of the information specified in paragraphs (c)(1) through (4) of this section for each piece of equipment in ethylene oxide service that is placed on delay of repair.

(1) The date that delay of repair began.

(2) The date and instrument reading of each monitoring event.

(3) The date of successful repair.

(4) If the equipment that is isolated from the process such that it is no longer in ethylene oxide service, the date of isolation.

(d) *Recordkeeping and documentation.* The owner or operator required to keep continuous records shall keep records as specified in

paragraphs (d)(1) through (11) of this section, unless an alternative recordkeeping system has been requested and approved as specified in paragraph (g) of this section, and except as provided in paragraph (h) of this section. If a monitoring plan for storage vessels pursuant to § 63.1432(i) requires continuous records, the monitoring plan shall specify which provisions, if any, of paragraphs (d)(1) through (11) of this section apply. As described in § 63.1432(i), certain storage vessels are not required to keep continuous records as specified in this paragraph. The owner or operator of such storage vessels shall keep records as specified in the monitoring plan required by § 63.1432(i).

(1) The monitoring system shall measure data values at least once during approximately equal 15-minute intervals.

(2) The owner or operator shall record either each measured data value or block average values for 1 hour or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values. The owner or operator of process vents from batch unit operations shall record each measured data value.

(3) Daily average values of each continuously monitored parameter shall be calculated for each operating day as specified in paragraphs (d)(3)(i) through (ii) of this section, except as specified in paragraphs (d)(6) and (7) of this section.

(i) The daily average value shall be calculated as the average of all parameter values recorded during the operating day, except as specified in paragraph (d)(7) of this section. The calculated average shall cover a 24-hour period if operation is continuous. If intermittent emissions episodes occur resulting in emissions being vented to a combustion, recapture, or recovery device for a period of less than 24 hours in the operating day, the daily average shall be calculated based only on the period when emissions are being vented to the combustion, recapture, or recovery device. For example, if a batch unit operation operates such that emissions are vented to a combustion device for 6 hours, then the daily average is the average of the temperature measurements taken during those 6 hours.

(ii) The operating day shall be the 24-hour period that the owner or operator specifies in the operating permit or the Notification of Compliance Status, for

purposes of determining daily average values.

(4)–(5) [Reserved]

(6) If all recorded values for a monitored parameter during an operating day are above the minimum level or below the maximum level established in the Notification of Compliance Status or operating permit, the owner or operator may record that all values were above the minimum level or below the maximum level rather than calculating and recording a daily average for that operating day.

(7) Monitoring data recorded during periods identified in paragraphs (d)(7)(i) and (ii) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or combustion, recovery, or recapture device operation when monitors are not operating.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; or

(ii) Periods of non-operation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

(8) For continuous monitoring systems used to comply with this subpart, records documenting the completion of calibration checks, and records documenting the maintenance of continuous monitoring systems that are specified in the manufacturer's instructions or that are specified in other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(9) The owner or operator of an affected source granted a waiver of recordkeeping or reporting requirements under the General Provisions' recordkeeping and reporting requirements in § 63.10(f) shall maintain the information, if any, specified by the Administrator as a condition of the waiver of recordkeeping or reporting requirements.

(10) For pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (d)(10)(i) through (v) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that the owner or operator elects to equip with a closed-vent system and control device, subject to the provisions in § 63.1434(c)(4).

(ii) A list of identification numbers for pressure relief devices subject to the provisions in § 63.1434(c)(1).

(iii) A list of identification numbers for pressure relief devices equipped

with rupture disks, subject to the provisions in § 63.1434(c)(2)(ii).

(iv) The dates and results of the Method 21 of appendix A of part 60 to this chapter, monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.1434(c)(1) and (2). The results shall include:

(A) The background level measured during each compliance test.

(B) The maximum instrument reading measured at each piece of equipment during each compliance test.

(v) For pressure relief devices in organic HAP service subject to § 63.1434(c)(3), keep records of each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The start date, start time, and duration in minutes of the pressure release.

(C) The quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(11) Beginning no later than March 18, 2029, the owner or operator shall keep records of excursions of an applicable standard. For each excursion, record the start date, start time, duration in hours, cause, a list of the affected sources or equipment, whether the excursion occurred during a period of startup, shutdown, or malfunction, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, actions taken to minimize emissions in accordance with § 63.1420(h)(4), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(e) *Reporting and notification.* In addition to the reports and notifications required by 40 CFR part 63, subpart A, as specified in this subpart, the owner or operator of an affected source shall prepare and submit the reports listed in paragraphs (e)(3) through (9) of this section, as applicable. All reports required by this subpart, and the schedule for their submittal, are listed in table 8 of this subpart.

(1) *Violation of reporting requirements.* Owners and operators shall not be in violation of the reporting requirements of this paragraph (e) for failing to submit information required to be included in a specified report if the owner or operator meets the requirements in paragraphs (e)(1)(i)

through (iii) of this section. Examples of circumstances where this paragraph may apply include information related to newly-added equipment or emission points, changes in the process, changes in equipment required or utilized for compliance with the requirements of this subpart, or changes in methods or equipment for monitoring, recordkeeping, or reporting.

(i) The information was not known in time for inclusion in the report specified by this subpart.

(ii) The owner or operator has been diligent in obtaining the information.

(iii) The owner or operator submits a report according to the provisions of paragraphs (e)(1)(iii)(A) through (C) of this section.

(A) If this subpart expressly provides for supplements to the report in which the information is required, the owner or operator shall submit the information as a supplement to that report. The information shall be submitted no later than 60 days after it is obtained, unless otherwise specified in this subpart.

(B) If this subpart does not expressly provide for supplements, but the owner or operator must submit a request for revision of an operating permit pursuant to the state operating permit programs in part 70 of this chapter or the Federal operating permit programs in part 71 of this chapter, due to circumstances to which the information pertains, the owner or operator shall submit the information with the request for revision to the operating permit.

(C) In any case not addressed by paragraph (e)(1)(iii)(A) or (B) of this section, the owner or operator shall submit the information with the first Periodic Report, as required by this subpart, which has a submission deadline at least 60 days after the information is obtained.

(2) *Submittal of reports.* All reports required under this subpart shall be sent to the Administrator at the applicable address listed in the General Provisions' list of addresses of state air pollution control agencies and EPA Regional Offices, in § 63.13 unless otherwise specified in this subpart. If acceptable to both the Administrator and the owner or operator of a source, reports not otherwise required to be submitted electronically may be submitted electronically or on electronic media.

(3) *Initial Notification.* The owner or operator of a new affected source shall submit an Initial Notification to the Administrator containing the information described in paragraph (e)(3)(i) of this section according to the schedule in paragraph (e)(3)(ii) of this section. The General Provisions' Initial Notification requirements in § 63.9(b)(2)

and (3) shall not apply for the purposes of this subpart.

(i) The Initial Notification shall include the following information:

(A) The name and address of the owner or operator;

(B) The address (physical location) of the affected source;

(C) An identification of the kinds of emission points within the affected source;

(D) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date; and

(E) A statement of whether or not the affected source is a major source.

(ii) The Initial Notification shall be submitted according to the schedule in paragraph (e)(3)(ii)(A), (B), or (C) of this section, as applicable.

(A) [Reserved]

(B) For a new source that has an initial start-up on or after August 30, 1999, the application for approval of construction or reconstruction required by the General Provisions in § 63.5(d) shall be submitted in lieu of the Initial Notification. The application shall be submitted as soon as practical before construction or reconstruction is planned to commence (but it need not be sooner than August 30, 1999). For a new source that reclassifies to major source status after January 19, 2021, and greater than 90 days after the initial start-up, the source shall submit the initial notification required by 63.9(b) no later than 120 days after the source becomes subject to this subpart.

(C) For a new source that has an initial start-up prior to August 30, 1999, the Initial Notification shall be submitted no later than August 30, 1999, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The application for approval of construction or reconstruction described in the General Provisions' requirements in § 63.5(d) is not required for these sources.

(4) *Precompliance Report.* The owner or operator of an affected source requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; or requesting approval to establish parameter monitoring levels according to the procedures contained in § 63.1438(c) or (d) shall submit a Precompliance Report according to the schedule described in paragraph (e)(4)(i) of this section. The Precompliance Report shall contain the information specified in paragraphs (e)(4)(ii) through (viii) of this section, as appropriate.

(i) The Precompliance Report shall be submitted to the Administrator no later than 12 months prior to the compliance date. Unless the Administrator objects to a request submitted in the Precompliance Report within 45 days after its receipt, the request shall be deemed approved. For new affected sources, the Precompliance Report shall be submitted to the Administrator with the application for approval of construction or reconstruction required in paragraph (b)(2) of this section. Supplements to the Precompliance Report may be submitted as specified in paragraph (e)(4)(vii) of this section. To submit a Precompliance Report for the first time after the compliance date to request an extension for compliance; request approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; or request approval to establish parameter monitoring levels according to the procedures contained in § 63.1438(c) or (d), the owner or operator shall notify the Administrator at least 90 days before the planned change is to be implemented; the change shall be considered approved if the Administrator either approves the change in writing, or fails to disapprove the change in writing within 45 days of receipt.

(ii) A request for an extension for compliance, as specified in § 63.1422(e), may be submitted in the Precompliance Report. The request for a compliance extension shall include the data outlined in the General Provisions' compliance requirements in § 63.6(i)(6)(i)(A) and (B), as required in § 63.1422(e)(1).

(iii) The alternative monitoring parameter information required in paragraph (f) of this section shall be submitted in the Precompliance Report if, for any emission point, the owner or operator of an affected source seeks to comply through the use of a control technique other than those for which monitoring parameters are specified in this subpart or in 40 CFR part 63, subpart G, or seeks to comply by monitoring a different parameter than those specified in this subpart or in 40 CFR part 63, subpart G.

(iv) If the affected source seeks to comply using alternative continuous monitoring and recordkeeping as specified in paragraph (g) of this section, the owner or operator shall submit a request for approval in the Precompliance Report.

(v) The owner or operator shall report the intent to use an alternative emission standard to comply with the provisions of this subpart in the Precompliance

Report. The Administrator may deem an alternative emission standard to be equivalent to the standard required by the subpart, under the procedures outlined in the General Provisions' requirements for use of an alternative nonopacity emission standard, in § 63.6(g).

(vi) [Reserved]

(vii) Supplements to the Precompliance Report may be submitted as specified in paragraph (e)(4)(vii)(A) of this section, or as specified in paragraph (e)(4)(vii)(B) of this section. Unless the Administrator objects to a request submitted in a supplement to the Precompliance Report within 45 days after its receipt, the request shall be deemed approved.

(A) Supplements to the Precompliance Report may be submitted to clarify or modify information previously submitted.

(B) Supplements to the Precompliance Report may be submitted to request approval to use alternative monitoring parameters, as specified in paragraph (e)(4)(iii) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (e)(4)(iv) of this section; or to use alternative controls, as specified in paragraph (e)(4)(v) of this section.

(viii) If an owner or operator establishes parameter monitoring levels according to the procedures contained in the parameter monitoring provisions in § 63.1438(c) or (d), the following information shall be submitted in the Precompliance Report:

(A) Identification of which procedures (*i.e.*, § 63.1438(c) or (d)) are to be used; and

(B) A description of how the parameter monitoring level is to be established. If the procedures in § 63.1438(c) are to be used, a description of how performance test data will be used shall be included.

(5) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1422. Beginning May 18, 2026, the owner or operator must submit all Notification of Compliance Status reports in PDF format to the EPA following the procedure specified in § 63.9(k). For equipment leaks subject to § 63.1434, the owner or operator shall submit the information specified in the HON equipment leak Notification of Compliance Status requirements in § 63.182(c), in the Notification of Compliance Status required by this paragraph. For all other emission points, including heat exchange systems, the Notification of Compliance Status shall

contain the information listed in paragraphs (e)(5)(i) through (vii) of this section. For pressure relief devices subject to the requirements of § 63.1434(c)(3), the owner or operator shall submit the information listed in paragraph (e)(5)(viii) of this section in the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring. For flares subject to the requirements in § 63.1436, owners and operators shall also submit the information in paragraph (e)(5)(ix) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for flare monitoring. For process vents subject to the requirements of § 63.1426(g), storage vessels subject to the requirements of § 63.1432(s), wastewater subject to the requirements of § 63.1433(a)(23), and heat exchange systems subject to the requirements of § 63.1435(i), owners and operators shall also submit the information in paragraph (e)(5)(x) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date. For adsorber(s) that cannot be regenerated or a regenerative adsorber(s) that is regenerated onsite, the owner or operator shall also submit the information listed in paragraph (e)(5)(xi) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date.

(i) The results of any emission point group determinations, process section applicability determinations, performance tests, inspections, continuous monitoring system performance evaluations, any other information required by the test method to be in the test report used to demonstrate compliance, values of monitored parameters established during performance tests, and any other information required to be included in a Notification of Compliance Status under the requirements for overlapping regulations in § 63.1422(j), the HON storage vessel reporting provisions in § 63.122 and the storage vessel provisions in § 63.1432, the HON transfer rack reporting provisions in §§ 63.129 and 63.130, and the HON process wastewater reporting provisions in § 63.146. In addition, the owner or operator shall comply with paragraphs (e)(5)(i)(A) and (B) of this section.

(A) For performance tests, group determinations, or determination that controls are needed, the Notification of Compliance Status shall include one complete test report, except as specified in paragraph (e)(5)(i)(B) of this section,

for each test method used for a particular kind of emission point. For additional tests performed for the same kind of emission point using the same method, the results and any other information required by the test method to be in the test report shall be submitted, but a complete test report is not required.

(B) If the performance test results have been submitted electronically through the EPA's Compliance and Emissions Data Reporting Interface (CEDRI) in accordance with paragraph (e)(9) of this section, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status report in lieu of the performance test results. The performance test results shall be submitted to CEDRI by the date the Notification of Compliance Status report is submitted. A complete test report shall include a brief process description, sampling site description, description of sampling and analysis procedures and any modifications to standard procedures, quality assurance procedures, record of operating conditions during the test, record of preparation of standards (if the owner or operator prepares the standards), record of calibrations, raw data sheets for field sampling, raw data sheets for field and laboratory analyses, documentation of calculations, and any other information required by the test method to be in the test report.

(ii) For each monitored parameter for which a maximum or minimum level is required to be established under the HON process vent monitoring requirements in § 63.114(e) and the process vent monitoring requirements in § 63.1429(d), the HON process wastewater parameter monitoring requirements in § 63.143(f), the HON transfer rack parameter monitoring requirements in § 63.127(e), paragraph (e)(8) of this section, or paragraph (f) of this section, the information specified in paragraphs (e)(5)(ii)(A) through (C) of this section shall be submitted. Further, as described in the storage vessel provisions in § 63.1432(k), for those storage vessels for which the parameter monitoring plan (required to be submitted under the HON Notification of Compliance Status requirements for storage vessels in § 63.120(d)(3)) specifies compliance with the parameter monitoring provisions of § 63.1438, the owner or operator shall provide the information specified in paragraphs (e)(5)(ii)(A) through (C) of this section for each monitoring parameter. For those storage vessels for which the parameter monitoring plan required to

be submitted under the HON Notification of Compliance Status requirements for storage vessels in § 63.120(d)(2) does not require compliance with the provisions of § 63.1438, the owner or operator shall provide the information specified in § 63.120(d)(3) as part of the Notification of Compliance Status.

(A) The required information shall include the specific maximum or minimum level of the monitored parameter(s) for each emission point.

(B) The required information shall include the rationale for the specific maximum or minimum level for each parameter for each emission point, including any data and calculations used to develop the level and a description of why the level indicates that the combustion, recovery, or recapture device is operated in a manner to ensure compliance with the provisions of this subpart.

(C) The required information shall include a definition of the affected source's operating day, as specified in paragraph (d)(3)(ii) of this section, for purposes of determining daily average values of monitored parameters.

(iii) The determination of applicability for flexible operation units as specified in § 63.1420(e)(1)(iii).

(iv) The parameter monitoring levels for flexible operation units, and the basis on which these levels were selected, or a demonstration that these levels are appropriate at all times, as specified in § 63.1420(e)(5)(ii)(A).

(v) The results for each predominant use determination made under § 63.1420(f)(1) through (7), for storage vessels assigned to an affected source subject to this subpart.

(vi) If any emission point is subject to this subpart and to other standards as specified in § 63.1422(j), and if the provisions of § 63.1422(j) allow the owner or operator to choose which testing, monitoring, reporting, and recordkeeping provisions will be followed, then the Notification of Compliance Status shall indicate which rule's requirements will be followed for testing, monitoring, reporting, and recordkeeping.

(vii) An owner or operator who transfers a Group 1 wastewater stream or residual removed from a Group 1 wastewater stream for treatment pursuant to § 63.132(g) shall include in the Notification of Compliance Status the name and location of the transferee and a description of the Group 1 wastewater stream or residual sent to the treatment facility. An owner or operator who transfers a Group 1 process vent for disposal pursuant to § 63.113(i) shall include in the

Notification of Compliance Status the name and location of the transferee, and the identification of the Group 1 process vent.

(viii) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), a description of the alarms or other methods by which operators will be notified of a pressure release, and a description of how the owner or operator will determine the information to be recorded under paragraphs (d)(10)(v)(B) and (C) of this section (*i.e.*, the duration of the pressure release and the methodology and calculations for determining the quantity of total HAP emitted during the pressure release).

(ix) For flares subject to the requirements in § 63.1436, the supplement to the Notification of Compliance Status shall include flare management plans, flare design (*e.g.*, steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point); all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the initial visible emissions demonstration required by § 63.670(h), as applicable; and all periods during the compliance determination when the pilot flame or flare flame is absent.

(x) For process vents subject to the requirements of § 63.1426(g), storage vessels subject to the requirements of § 63.1432(s), wastewater subject to the requirements of § 63.1433(a)(23), and heat exchange systems subject to the requirements of § 63.1435(i), the supplement to the Notification of Compliance Status shall identify all process vents, storage vessels, wastewater streams, and heat exchange systems that are in ethylene oxide service, identify the method(s) used to control ethylene oxide emissions from each process vent, storage vessel, and wastewater stream (*i.e.*, use of a flare, scrubber, or other control device), and include the information specified in paragraphs (e)(5)(x)(A) through (D) of this section, as applicable.

(A) For process vents, all uncontrolled, undiluted ethylene oxide concentration measurements, and the calculations used to determine the total uncontrolled ethylene oxide mass emissions rate for the sum of all vent gas streams.

(B) For storage vessels, include the concentration of ethylene oxide of the fluid stored in each storage vessel.

(C) For wastewater, include the concentration of ethylene oxide of each

wastewater stream. If you comply with § 63.1433(a)(23)(iii)(D), identify each individual wastewater stream, the combined ethylene oxide load prior to treatment, and how the combined ethylene oxide load was determined.

(D) For heat exchange systems, include the concentration of ethylene oxide of the process fluid cooled by the heat exchange system.

(xi) For adsorber(s) that cannot be regenerated or a regenerative adsorber(s) that is regenerated offsite, the supplement to the Notification of Compliance Status shall include the information listed in paragraphs (e)(5)(xi)(A) and (B) of this section.

(A) Whether the adsorber cannot be regenerated or is a regenerative adsorber(s) that is regenerated offsite.

(B) The breakthrough limit and adsorber bed life established during the initial performance test or design evaluation of the adsorber.

(6) *Periodic Reports.* For existing and new affected sources, the owner or operator shall submit Periodic Reports as specified in paragraphs (e)(6)(i) through (x) of this section. In addition, for equipment leaks subject to § 63.1434, the owner or operator shall submit the information specified in the HON periodic reporting requirements in § 63.182(d) as part of the Periodic Report required by this paragraph (e)(6), and for heat exchange systems subject to § 63.1434, the owner or operator shall submit the information specified in the HON heat exchange system reporting requirements in § 63.104(f)(2) as part of the Periodic Report required by this paragraph (e)(6). On and after March 18, 2029 or once the reporting template for this subpart has been available on the CEDRI website for 1 year, whichever date is later, owners and operators shall submit all subsequent reports following the procedure specified in § 63.9(k). Owners and operators shall use the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart. 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 under §§ 63.9(i) and 63.10(a), the report shall be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(i) Except as specified in paragraphs (e)(6)(viii) of this section, a report containing the information in paragraph (e)(6)(ii) of this section or paragraphs (e)(6)(iii) through (vii) of this section, as appropriate, shall be submitted

semiannually no later than 60 days after the end of each 180-day period. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status is due. Subsequent reports shall cover each preceding 6-month period. All periodic reports shall contain the company name and address (including county), as well as the beginning and ending dates of the reporting period.

(ii) If none of the compliance exceptions in paragraphs (e)(6)(iii) through (vii) of this section occurred during the 6-month period, the Periodic Report required by paragraph (e)(6)(i) of this section shall be a statement that there were no compliance exceptions, as described in this paragraph, for the 6-month period covered by that report and that none of the activities specified in paragraphs (e)(6)(iii) through (vii) of this section occurred during the period covered by that report.

(iii) For an owner or operator of an affected source complying with the provisions of §§ 63.1432, 63.1433, and 63.1434(i) for any emission point, Periodic Reports shall include:

(A) All information specified in the HON periodic reporting requirements in § 63.122(a)(4) for storage vessels and in § 63.146(c) through (f) for process wastewater. In addition, if you comply with § 63.1433(a)(23)(iii)(D) and annual sampling shows that the combined ethylene oxide load of the excluded wastewater streams prior to treatment is 1.0 megagram per year or greater, you must document this in the Periodic Report and also include the actual combined ethylene oxide load prior to treatment, how the combined load was determined, and sampling dates and results for each wastewater stream contributing to the combined load. Beginning no later than the compliance dates specified in § 63.1422(h), include all information specified in § 63.130(d) for transfer racks. Beginning no later than the compliance dates specified in § 63.1422(h), for storage vessels in ethylene oxide service subject to the requirements of § 63.124, the Periodic Report must include the information specified in § 63.123(k)(2). Indicate the start date, start time, and duration in hours for each period.

(B) The daily average values or, for parameters used to comply with § 63.1425(g) or 63.1432(s)(3), the 1-hour block average values of monitored parameters for all excursions, as defined in § 63.1438(f). Beginning no later than the compliance dates specified in § 63.1422(h), for each excursion, report the start date, start time, duration in

hours, cause, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, actions taken to minimize emissions, and any corrective action taken to return the affected unit to its normal or usual manner of operation.

(C) The periods when monitoring data were not collected shall be specified and, beginning no later than the compliance dates specified in § 63.1422(h), including start date, start time, and duration in hours; and

(D) The information in paragraphs (e)(6)(iii)(D)(1) through (3) of this section, as applicable:

(1) Notification if a process change is made such that the group status of any emission point changes from Group 2 to Group 1. The owner or operator is not required to submit a notification of a process change if that process change caused the group status of an emission point to change from Group 1 to Group 2. However, until the owner or operator notifies the Administrator that the group status of an emission point has changed from Group 1 to Group 2, the owner or operator is required to continue to comply with the Group 1 requirements for that emission point. This notification may be submitted at any time.

(2) Notification if one or more emission points (other than equipment leak components subject to § 63.1434), or one or more PMPUs is added to an affected source. The owner or operator shall submit the information contained in paragraphs (e)(6)(iii)(D)(2)(i) and (ii) of this section.

(i) A description of the addition to the affected source.

(ii) Notification of the group status or control requirement for the additional emission point or all emission points in the PMPU.

(3) For gas streams sent for disposal pursuant to § 63.113(i) or for process wastewater streams sent for treatment pursuant to § 63.132(g), reports of changes in the identity of the treatment facility or transferee.

(E) Before March 18, 2029, the information in paragraph (b)(1)(ii) of this section for reports of malfunctions.

(iv) If any performance tests are reported in a Periodic Report, the following information shall be included:

(A) One complete test report shall be submitted for each test method used for a particular kind of emission point tested. A complete test report shall contain the information specified in paragraph (e)(5)(i)(B) of this section.

(B) For additional tests performed for the same kind of emission point using

the same method, results and any other information required by the test method to be in the test report shall be submitted, but a complete test report is not required.

(C) If the performance test results have been submitted electronically through CEDRI in accordance with paragraph (e)(9) of this section, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted must be submitted in the Period Report in lieu of the information required in paragraphs (e)(6)(iv)(A) and (B) of this section. The performance test results must be submitted to CEDRI by the date the Periodic Report is submitted.

(v) The results for each change made to a primary product determination for a PMPU made under § 63.1420(e)(3) or (10).

(vi) The results for each reevaluation of the applicability of this subpart to a storage vessel that begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or a storage vessel that ceases to receive material from (or send material to) a process unit that was included in the initial determination, in accordance with § 63.1420(f)(8).

(vii) The Periodic Report required by the equipment leak provisions in § 63.1434(f) shall be submitted as part of the Periodic Report required by paragraph (e)(6) of this section. Additionally, for equipment in ethylene oxide service, you must include the information in paragraphs (e)(6)(vii)(A) through (E) of this section in the Periodic Report. If there are more than five pieces of equipment in ethylene oxide service on delay of repair during the reporting period, include the total number of pieces of equipment in ethylene oxide service in the Periodic Report.

(A) Identification of each piece of equipment that is on delay of repair during the reporting period.

(B) The date that delay of repair began for each piece of equipment.

(C) An indication of whether the equipment has been successfully repaired, and if so, the date of successful repair (remonitoring date).

(D) An indication of whether the equipment has been isolated from the process such that it is no longer in ethylene oxide service, and if so, the date that the equipment was successfully isolated from the process.

(E) An indication of whether any monthly monitoring event resulted in an instrument reading of 1,000 parts per million or greater, and if so, the date of the monitoring event.

(viii) The owner or operator of an affected source shall submit quarterly reports for particular emission points and process sections as specified in paragraphs (e)(6)(viii)(A) through (D) of this section.

(A) The owner or operator of an affected source shall submit quarterly reports for a period of 1 year for an emission point or process section if the emission point or process section meets the conditions in paragraph (e)(6)(viii)(A)(1) or (2) of this section.

(1) A combustion, recovery, or recapture device for a particular emission point or process section has one or more excursions, as defined in § 63.1438(f), in two consecutive semiannual reporting periods; or

(2) The Administrator requests the owner or operator to submit quarterly reports for that emission point or process section.

(B) The quarterly reports shall include all information specified in paragraphs (e)(6)(iii) through (vii) of this section, as applicable to the emission point or process section for which quarterly reporting is required under paragraph (e)(6)(viii)(A) of this section. Information applicable to other emission points within the affected source shall be submitted in the semiannual reports required under paragraph (e)(6)(i) of this section.

(C) Quarterly reports shall be submitted no later than 60 days after the end of each quarter.

(D) After quarterly reports have been submitted for an emission point for 1 year without one or more excursions occurring (during that year), the owner or operator may return to semiannual reporting for the emission point or process section.

(ix) For pressure relief devices in organic HAP service, Periodic Reports must include the information specified in paragraphs (e)(6)(ix)(A) through (C) of this section.

(A) For pressure relief devices in organic HAP service subject to § 63.1434(c), report confirmation that all monitoring to show compliance was conducted within the reporting period.

(B) For pressure relief devices in organic HAP gas or vapor service subject to § 63.1434(c)(2), report any instrument reading of 500 ppm above background or greater, more than 5 calendar days after the pressure release.

(C) For pressure relief devices in organic HAP service subject to § 63.1434(c)(3), report each pressure release to the atmosphere, including the following information:

(1) The source, nature, and cause of the pressure release.

(2) The start date, start time, and duration in minutes of the pressure release.

(3) The quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(4) The actions taken to prevent this pressure release.

(5) The measures adopted to prevent future such pressure releases.

(x) The information specified in § 63.108(l)(2) according to § 63.1436(b).

(7) *Other reports.* Other reports shall be submitted as specified in paragraphs (e)(7)(i) through (iii) of this section.

(i) For storage vessels, the notifications of inspections required by § 63.1432 shall be submitted, as specified in the HON storage vessel provisions in § 63.122(h)(1) and (2).

(ii) When the conditions at § 63.1420(e)(3)(iii), (e)(9), or (e)(10) are met, reports of changes to the primary product for a PMPU or process unit, as required by § 63.1420(e)(3)(iii), (e)(9), or (e)(10)(iii), respectively, shall be submitted.

(iii) Owners or operators of PMPU or emission points (other than equipment leak components subject to § 63.1434) that are subject to provisions for changes or additions to plant sites in § 63.1420(g)(1) or (2) shall submit a report as specified in paragraphs (e)(7)(iii)(A) and (B) of this section.

(A) Reports shall include:

(1) A description of the process change or addition, as appropriate;

(2) The planned start-up date and the appropriate compliance date, according to § 63.1420(g)(1) or (2); and

(3) Identification of the group status of emission points (except equipment leak components subject to the requirements in § 63.1434) specified in paragraphs (e)(7)(iii)(A)(3)(i) through (iii) of this section, as applicable.

(i) All the emission points in the added PMPU, as described in § 63.1420(g)(1).

(ii) All the emission points in an affected source designated as a new affected source under § 63.1420(g)(2)(i).

(iii) All the added or created emission points as described in § 63.1420(g)(2)(ii) or (iii).

(4) If the owner or operator wishes to request approval to use alternative monitoring parameters, alternative continuous monitoring or recordkeeping, alternative controls, or wishes to establish parameter monitoring levels according to the procedures contained in § 63.1438(c) or (d), a Precompliance Report shall be submitted in accordance with paragraph (e)(7)(iii)(B) of this section.

(B) Reports shall be submitted as specified in paragraphs (e)(7)(iii)(B)(1)

through (3) of this section, as appropriate.

(1) Owners or operators of an added PMPU subject to § 63.1420(g)(1) shall submit a report no later than 180 days prior to the compliance date for the PMPU.

(2) Owners or operators of an affected source designated as a new affected source under § 63.1420(g)(2)(i) shall submit a report no later than 180 days prior to the compliance date for the affected source.

(3) Owners and operators of any emission point (other than equipment leak components subject to § 63.1434) subject to § 63.1420(g)(2)(ii) or (iii) shall submit a report no later than 180 days prior to the compliance date for those emission points.

(8) *Operating permit application.* An owner or operator who submits an operating permit application instead of a Precompliance Report shall submit the information specified in paragraph (e)(4) of this section, as applicable, with the operating permit application.

(9) *Electronic reporting of performance tests and performance evaluations.*

(i) Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart following the procedure specified in § 63.9(k). Submit the data in a file format generated using the EPA's Electronic Reporting Tool (ERT). Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) accompanied by the other information required by § 63.7(g)(2) in PDF format.

(ii) Beginning no later than May 18, 2026, within 60 days after the date of completing each continuous emissions monitoring system performance evaluation that includes a relative accuracy test audit, you must submit the results of the performance evaluation following the procedure specified in § 63.9(k). The results must be in a file format generated using the EPA's Electronic Reporting Tool (ERT). Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) accompanied by the other information required by § 63.7(g)(2) in PDF format.

(f) *Alternative monitoring parameters.* The owner or operator who has been directed by any section of this subpart, or any section of another subpart referenced by this subpart, that specifically references this paragraph to set unique monitoring parameters, or who requests approval to monitor a different parameter than those listed in § 63.1432 for storage vessels, § 63.1427 for ECO, § 63.1429 for process vents, or § 63.143 for process wastewater shall submit the information specified in paragraphs (f)(1) through (3) of this section in the Precompliance Report, as required by paragraph (e)(4) of this section. The owner or operator shall retain for a period of 5 years each record required by paragraphs (f)(1) through (3) of this section.

(1) The required information shall include a description of the parameter(s) to be monitored to ensure the combustion, recovery, or recapture device; control technique; or pollution prevention measure is operated in conformance with its design and achieves the specified emission limit, percent reduction, or nominal efficiency, and an explanation of the criteria used to select the parameter(s).

(2) The required information shall include a description of the methods and procedures that will be used to demonstrate that the parameter indicates proper operation, the schedule for this demonstration, and a statement that the owner or operator will establish a level for the monitored parameter as part of the Notification of Compliance Status report required in paragraph (e)(5) of this section, unless this information has already been included in the operating permit application.

(3) The required information shall include a description of the proposed monitoring, recordkeeping, and reporting system, to include the frequency and content of monitoring, recordkeeping, and reporting. Further, the rationale for the proposed monitoring, recordkeeping, and reporting system shall be included if either condition in paragraph (f)(3)(i) or (ii) of this section is met:

(i) If monitoring and recordkeeping is not continuous; or

(ii) If reports of daily average values will not be included in Periodic Reports when the monitored parameter value is above the maximum level or below the minimum level as established in the operating permit or the Notification of Compliance Status.

(g) *Alternative continuous monitoring and recordkeeping.* An owner or operator choosing not to implement the continuous parameter operating and recordkeeping provisions listed in

§ 63.1429 for process vents, and § 63.1433 for wastewater, may instead request approval to use alternative continuous monitoring and recordkeeping provisions according to the procedures specified in paragraphs (g)(1) through (4) of this section. Requests shall be submitted in the Precompliance Report as specified in paragraph (e)(4)(iv) of this section, and shall contain the information specified in paragraphs (g)(2)(ii) and (g)(3)(ii) of this section, as applicable.

(1) The provisions in the General Provisions requirements for the use of an alternative monitoring method in § 63.8(f)(5)(i) shall govern the review and approval of requests.

(2) An owner or operator of an affected source that does not have an automated monitoring and recording system capable of measuring parameter values at least once during approximately equal 15-minute intervals and that does not generate continuous records may request approval to use a nonautomated system with less frequent monitoring, in accordance with paragraphs (g)(2)(i) and (ii) of this section.

(i) The requested system shall include visual reading and recording of the value of the relevant operating parameter no less frequently than once per hour. Daily averages shall be calculated from these hourly values and recorded.

(ii) The request shall contain:

(A) A description of the planned monitoring and recordkeeping system;

(B) Documentation that the affected source does not have an automated monitoring and recording system;

(C) Justification for requesting an alternative monitoring and recordkeeping system; and

(D) Demonstration that the proposed monitoring frequency is sufficient to represent combustion, recovery, or recapture device operating conditions, considering typical variability of the specific process and combustion, recovery, or recapture device operating parameter being monitored.

(3) An owner or operator may request approval to use an automated data compression recording system that does not record monitored operating parameter values at a set frequency (for example, once at approximately equal intervals of about 15 minutes), but that records all values that meet set criteria for variation from previously recorded values, in accordance with paragraphs (g)(3)(i) and (ii) of this section.

(i) The requested system shall be designed to:

(A) Measure the operating parameter value at least once during

approximately equal 15-minute intervals;

(B) Record at least four values each hour during periods of operation;

(C) Record the date and time when monitors are turned off or on;

(D) Recognize unchanging data that may indicate the monitor is not functioning properly, alert the operator, and record the incident;

(E) Calculate daily average values of the monitored operating parameter based on all measured data; and

(F) If the daily average is not an excursion, as defined in § 63.1438(f), the data for that operating day may be converted to hourly average values and the four or more individual records for each hour in the operating day may be discarded.

(ii) The request shall contain:

(A) A description of the monitoring system and data compression recording system, including the criteria used to determine which monitored values are recorded and retained;

(B) The method for calculating daily averages; and

(C) A demonstration that the system meets all criteria in paragraph (g)(3)(i) of this section.

(4) An owner or operator may request approval to use other alternative monitoring systems according to the procedures specified in the General Provisions' requirements for using an alternative monitoring method in § 63.8(f)(4).

(h) *Reduced recordkeeping program.* For any parameter with respect to any item of equipment, the owner or operator may implement the recordkeeping requirements in paragraph (h)(1) or (2) of this section as alternatives to the continuous operating parameter monitoring and recordkeeping provisions that would otherwise apply under this subpart. The owner or operator shall retain for a period of 5 years each record required by paragraph (h)(1) or (2) of this section.

(1) The owner or operator may retain only the daily average value, and is not required to retain more frequent monitored operating parameter values, for a monitored parameter with respect to an item of equipment, if the requirements of paragraphs (h)(1)(i) through (iv) of this section are met. An owner or operator electing to comply with the requirements of paragraph (h)(1) of this section shall notify the Administrator in the Notification of Compliance Status or, if the Notification of Compliance Status has already been submitted, in the Periodic Report immediately preceding implementation of the requirements of paragraph (h)(1) of this section.

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation (e.g., a temperature reading of -200°C on a boiler), and will alert the operator by alarm or other means. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the monitoring values that have been obtained during that operating day, and the capability to observe this running average is readily available to the Administrator on-site during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) and (B) of this section. All instances in an operating day constitute a single occurrence.

(A) The running average is above the maximum or below the minimum established limits; and

(B) The running average is based on at least six 1-hour average values.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation, except in circumstances where the presence of unchanging data are the expected operating condition based on past experience (e.g., pH in some scrubbers), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(iv) The monitoring system will alert the owner or operator by an alarm or other means, if the running average parameter value calculated under paragraph (h)(1)(ii) of this section reaches a set point that is appropriately related to the established limit for the parameter that is being monitored.

(v) The owner or operator shall verify the proper functioning of the monitoring system, including its ability to comply with the requirements of paragraph (h)(1) of this section, at the times specified in paragraphs (h)(1)(v)(A) through (C) of this section. The owner or operator shall document that the required verifications occurred.

(A) Upon initial installation.

(B) Annually after initial installation.

(C) After any change to the programming or equipment constituting

the monitoring system, which might reasonably be expected to alter the monitoring system's ability to comply with the requirements of this section.

(vi) The owner or operator shall retain the records identified in paragraphs (h)(1)(vi)(A) through (D) of this section.

(A) Identification of each parameter, for each item of equipment, for which the owner or operator has elected to comply with the requirements of paragraph (h) of this section.

(B) A description of the applicable monitoring system(s), and how compliance will be achieved with each requirement of paragraphs (h)(1)(i) through (v) of this section. The description shall identify the location and format (e.g., on-line storage, log entries) for each required record. If the description changes, the owner or operator shall retain both the current and the most recent superseded description, as specified in paragraph (h)(1)(vi)(D) of this section.

(C) A description, and the date, of any change to the monitoring system that would reasonably be expected to affect its ability to comply with the requirements of paragraph (h)(1) of this section.

(D) The owner or operator subject to paragraph (h)(1)(vi)(B) of this section shall retain the current description of the monitoring system as long as the description is current. The current description shall, at all times, be retained on-site or be accessible from a central location by computer or other means that provides access within 2 hours after a request. The owner or operator shall retain all superseded descriptions for at least 5 years after the date of their creation. Superseded descriptions shall be retained on-site (or accessible from a central location by computer or other means that provides access within 2 hours after a request) for at least 6 months after their creation. Thereafter, superseded descriptions may be stored off-site.

(2) If an owner or operator has elected to implement the requirements of paragraph (h)(1) of this section for a monitored parameter with respect to an item of equipment and a period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or

operator is no longer required to record the daily average value, for any operating day when the daily average is less than the maximum, or greater than the minimum established limit. With approval by the Administrator, monitoring data generated prior to the compliance date of this subpart shall be credited toward the period of 6 consecutive months, if the parameter limit and the monitoring accomplished during the period prior to the compliance date was required and/or approved by the Administrator.

(i) If the owner or operator elects not to retain the daily average values, the owner or operator shall notify the Administrator in the next Periodic Report. The notification shall identify the parameter and unit of equipment.

(ii) If, on any operating day after the owner or operator has ceased recording daily average values as provided in paragraph (h)(2) of this section, there is an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or operator shall immediately resume retaining the daily average value for each operating day and shall notify the Administrator in the next Periodic Report. The owner or operator shall continue to retain each daily average value until another period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section.

(iii) The owner or operator shall retain the records specified in paragraph (h)(1) of this section, for the duration specified in paragraph (h) of this section. For any calendar week, if compliance with paragraphs (h)(1)(i) through (iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one parameter value during a period of operation.

(iv) For the purposes of paragraph (h) of this section, an excursion means that the daily average of monitoring data for a parameter is greater than the maximum, or less than the minimum established value.

■ 23. Revise tables 1 through 3 to subpart PPP of part 63 to read as follows:

TABLE 1 TO SUBPART PPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation
§ 63.1(a)(1)	Yes	§ 63.1423 specifies definitions in addition to or that supersede definitions in § 63.2.
§ 63.1(a)(2)	Yes.	

TABLE 1 TO SUBPART PPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
§ 63.1(a)(3)	Yes	§ 63.1422(f) through (k) of this subpart and § 63.160(b) identify those standards which overlap with the requirements of subparts PPP and H and specify how compliance shall be achieved.
§ 63.1(a)(4)	Yes	Subpart PPP (this table) specifies the applicability of each paragraph in subpart A to subpart PPP.
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)	Yes.	
§ 63.1(a)(7)–(9)	No	Reserved.
§ 63.1(a)(10)	Yes.	
§ 63.1(a)(11)	Yes.	
§ 63.1(a)(12)–(14)	Yes.	
§ 63.1(b)(1)	No	§ 63.1420(a) contains specific applicability criteria.
§ 63.1(b)(2)	Yes.	
§ 63.1(b)(3)	Yes.	
§ 63.1(c)(1)	Yes	Subpart PPP (this table) specifies the applicability of each paragraph in subpart A to subpart PPP.
§ 63.1(c)(2)	No	Area sources are not subject to subpart PPP.
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	No	Reserved.
§ 63.1(c)(5)	Yes	Except that affected sources are not required to submit notifications overridden by this table.
§ 63.1(c)(6)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	§ 63.1423 specifies those subpart A definitions that apply to subpart PPP.
§ 63.3	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)	Yes.	
§ 63.4(c)	Yes.	
§ 63.5(a)(1)	Yes	Except the terms “source” and “stationary source” should be interpreted as having the same meaning as “affected source.”
§ 63.5(a)(2)	Yes.	
§ 63.5(b)(1)	Yes	Except § 63.1420(g) defines when construction or reconstruction is subject to new source standards.
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)	Yes.	
§ 63.5(b)(4)	Yes	Except that the initial notification requirements in § 63.1439(e)(3) shall apply instead of the requirements in § 63.9(b).
§ 63.5(b)(5)	Yes.	
§ 63.5(b)(6)	Yes	Except that § 63.1420(g) defines when construction or reconstruction is subject to the new source standards.
§ 63.5(c)	No	Reserved.
§ 63.5(d)(1)(i)	Yes.	
§ 63.5(d)(1)(ii)	Yes	Except that § 63.5(d)(1)(ii)(H) does not apply.
§ 63.5(d)(1)(iii)	No	§ 63.1439(e)(5) and § 63.1434(e) specify notification of compliance status requirements.
§ 63.5(d)(2)	No.	
§ 63.5(d)(3)	Yes	Except § 63.5(d)(3)(ii) does not apply, and equipment leaks subject to § 63.1434 are exempt.
§ 63.5(d)(4)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)(1)	Yes.	
§ 63.5(f)(2)	Yes	Except that where § 63.9(b)(2) is referred to, the owner or operator need not comply.
§ 63.6(a)	Yes.	
§ 63.6(b)(1)	Yes.	
§ 63.6(b)(2)	Yes.	
§ 63.6(b)(3)	Yes.	
§ 63.6(b)(4)	Yes.	
§ 63.6(b)(5)	Yes.	
§ 63.6(b)(6)	No	Reserved.
§ 63.6(b)(7)	No.	
§ 63.6(c)(1)	Yes	§ 63.1422 specifies the compliance date.
§ 63.6(c)(2)	No.	
§ 63.6(c)(3)	No	Reserved.
§ 63.6(c)(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)(1)(i)	No	See § 63.1420(h)(4) for general duty requirement.
§ 63.6(e)(1)(ii)	No.	
§ 63.6(e)(1)(iii)	Yes.	
§ 63.6(e)(2)	No	Reserved.
§ 63.6(e)(3)	No.	
§ 63.6(f)(1)	No.	
§ 63.6(f)(2)	Yes	Except § 63.7(c), as referred to in § 63.6(f)(2)(iii)(D) does not apply, and except that § 63.6(f)(2)(ii) does not apply to equipment leaks subject to § 63.1434.

TABLE 1 TO SUBPART PPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
§ 63.6(f)(3)	Yes.	Subpart PPP does not require opacity and visible emission standards.
§ 63.6(g)	Yes.	
§ 63.6(h)	No	
§ 63.6(i)(1)	Yes.	
§ 63.6(i)(2)	Yes.	
§ 63.6(i)(3)	Yes.	Dates are specified in § 63.1422(e) and § 63.1439(e)(4)(i) for all emission points except equipment leaks, which are covered under § 63.182(a)(6)(i).
§ 63.6(i)(4)(i)(A)	Yes.	
§ 63.6(i)(4)(i)(B)	No	Reserved.
§ 63.6(i)(4)(ii)	No.	
§ 63.6(i)(5)–(14)	Yes.	
§ 63.6(i)(15)	No	
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	§ 63.1439(e) (5) and (6) specify the submittal dates of performance test results for all emission points except equipment leaks; for equipment leaks, compliance demonstration results are reported in the Periodic Reports.
§ 63.7(a)(1)	Yes.	
§ 63.7(a)(2)	No	§ 63.1437(a)(4) specifies notification requirements. Except if the owner or operator chooses to submit an alternative nonopacity emission standard for approval under § 63.6(g).
§ 63.7(a)(3)	Yes.	
§ 63.7(a)(4)	Yes.	
§ 63.7(b)	No	
§ 63.7(c)	No	
§ 63.7(d)	Yes.	See § 63.1437(a).
§ 63.7(e)(1)	No	
§ 63.7(e)(2)	Yes.	Subpart PPP specifies requirements. See § 63.1426(c) and (g).
§ 63.7(e)(3)	No	
§ 63.7(e)(4)	Yes.	Since a site-specific test plan is not required, the notification deadline in § 63.7(f)(2)(i) shall be 60 days prior to the performance test, and in § 63.7(f)(3) approval or disapproval of the alternative test method shall not be tied to the site-specific test plan.
§ 63.7(f)	Yes	
§ 63.7(g)	Yes	Except the notification of compliance status report requirements in § 63.1439(e)(5) shall apply instead of those in §§ 63.9(h) and 63.1439(e)(9) specified how and when to submit performance test and performance evaluation results. In addition, equipment leaks subject to § 63.1434 are not required to conduct performance tests.
§ 63.7(h)	Yes	Except § 63.7(h)(4)(ii) is not applicable, since the site-specific test plans in § 63.7(c)(2) are not required.
§ 63.8(a)(1)	Yes.	
§ 63.8(a)(2)	No.	Reserved.
§ 63.8(a)(3)	No	
§ 63.8(a)(4)	Yes	Except for flares subject to § 63.1436.
§ 63.8(b)(1)	Yes.	
§ 63.8(b)(2)	No	Subpart PPP specifies locations to conduct monitoring.
§ 63.8(b)(3)	Yes.	
§ 63.8(c)(1)	Yes.	See § 63.1420(h)(4) for general duty requirement.
§ 63.8(c)(1)(i)	No	
§ 63.8(c)(1)(ii)	No.	
§ 63.8(c)(1)(iii)	No.	
§ 63.8(c)(2)	Yes.	§ 63.1438 specifies monitoring requirements; not applicable to equipment leaks, because § 63.1434 does not require continuous monitoring systems.
§ 63.8(c)(3)	Yes.	
§ 63.8(c)(4)	No	
§ 63.8(c)(5)–(8)	No.	
§ 63.8(d)	No.	Yes, but only applies for CEMS, except this subpart specifies how and when the performance evaluation results are reported.
§ 63.8(e)	Yes	
§ 63.8(f)(1)–(3)	Yes.	Except the timeframe for submitting request is specified in § 63.1439(f) or (g); not applicable to equipment leaks, because § 63.1434 (through subpart H of this part) specifies acceptable alternative methods.
§ 63.8(f)(4)(i)	Yes	
§ 63.8(f)(4)(ii)	Yes.	Subpart PPP does not require CEMS except it allows the option to use CEMS for process vents and storage vessels in ethylene oxide service.
§ 63.8(f)(4)(iii)	Yes.	
§ 63.8(f)(5)(i)	Yes.	
§ 63.8(f)(5)(ii)	No.	
§ 63.8(f)(5)(iii)	Yes.	
§ 63.8(f)(6)	Yes	Applies only to CEMS. Other data reduction procedures specified in § 63.1439(d) and (h); not applicable to equipment leaks.
§ 63.8(g)	Yes	
§ 63.9(a)	Yes.	The initial notification requirements are specified in § 63.1439(e)(3).
§ 63.9(b)	No	
§ 63.9(c)	Yes.	

TABLE 1 TO SUBPART PPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
§ 63.9(d)	Yes.	
§ 63.9(e)	No	§ 63.1437(a)(4) specifies notification deadline.
§ 63.9(f)	No	Subpart PPP does not require opacity and visible emission standards.
§ 63.9(g)	No.	
§ 63.9(h)	No	§ 63.1439(e)(5) specifies notification of compliance status requirements.
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes	For change in major source status only.
§ 63.9(k)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)	No	§ 63.1439(a) specifies record retention requirements.
§ 63.10(b)(2)	No	This subpart specifies recordkeeping requirements including in §§ 63.1430(a) and 63.1439(b).
§ 63.10(b)(3)	Yes.	
§ 63.10(c)	No	§ 63.1439 specifies recordkeeping requirements.
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)	No	§ 63.1439(e)(9) specifies performance test reporting requirements; not applicable to equipment leaks.
§ 63.10(d)(3)	No	Subpart PPP does not require opacity and visible emission standards.
§ 63.10(d)(4)	Yes.	
§ 63.10(d)(5)	No	This subpart specifies reporting requirements in § 63.1439.
§ 63.10(e)	No	§ 63.1439 specifies reporting requirements.
§ 63.10(f)	Yes.	
§ 63.11	Yes	Except § 63.11(b) does not apply as specified in § 63.1436.
§ 63.12	Yes	Except that the authority of § 63.177 (for equipment leaks) will not be delegated to states.
§ 63.13–63.15	Yes.	

TABLE 2 TO SUBPART PPP OF PART 63—APPLICABILITY OF HON AND GROUP 1 POLYMERS AND RESINS PROVISIONS TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation	Applicable section of subpart PPP
Subpart F:			
§ 63.100	No.		
§ 63.101	Yes	Several definitions from § 63.101 are referenced at § 63.1423	§ 63.1423
§§ 63.102–63.103	No.		
§ 63.104	Yes	With the differences noted in § 63.1435(b) through (i)	§ 63.1435.
§ 63.105	Yes	With the differences noted in § 63.1433(b)	§ 63.1433.
§ 63.106	No.		
Subpart G:			
§ 63.107	No.		
§ 63.108	Yes	With the differences noted in § 63.1436(b).	
§ 63.109	Yes	With the differences noted in the definition of “in ethylene oxide service” in § 63.1423(b).	
§ 63.110	No.		
§ 63.111	No.		
§ 63.112	No.		
§§ 63.113–63.118	Yes	For THF facilities, with the differences noted in § 63.1425(f)(1) through (15).	§ 63.1425.
	No	For epoxide facilities, except that § 63.115(d) is used for TRE determinations.	§ 63.1428.
§§ 63.119–63.123	Yes	With the differences noted in § 63.1432(b) through 63.1432(w)	§ 63.1432.
§ 63.124	Yes	With the differences noted in §§ 63.1426(g) and 63.1432(w)	§§ 63.1426 and 63.1432.
§ 63.125	No	Reserved.	
§§ 63.126–63.130	Yes	With the differences noted in paragraphs § 63.1434(i)(1) through (13).	§ 63.1434.
§ 63.131	No	Reserved.	
§§ 63.132–63.147	Yes	With the differences noted in § 63.1433(a)(1) through (26)	§ 63.1433.
§§ 63.148–63.149	Yes	With the differences noted in §§ 63.1432(b) through (v) and 63.1433(a)(1) through (26).	§§ 63.1432 and 63.1433.
§ 63.150	No.		
§§ 63.151–63.152	No.		
§ 63.153	No	§ 63.1421.	
Subpart H:			
§§ 63.160–63.182	Yes	Subpart PPP affected sources shall comply with all requirements of subpart H to this part, with the differences noted in §§ 63.1422(d) and 63.1434.	§ 63.1434.
§ 63.183	No	§ 63.1421.	
§ 63.184	No.		
Subpart U:			

TABLE 2 TO SUBPART PPP OF PART 63—APPLICABILITY OF HON AND GROUP 1 POLYMERS AND RESINS PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation	Applicable section of subpart PPP
§§ 63.480–63.487	No.	Portions of § 63.488(b) and (e) are cross-referenced in subpart PPP.	
§ 63.488	Yes		
§§ 63.489–63.506	No.		

TABLE 3 TO SUBPART PPP OF PART 63—GROUP 1 STORAGE VESSELS AT EXISTING AND NEW AFFECTED SOURCES

Vessel capacity (cubic meters)	Vapor pressure ^a (kilopascals)
75 ≤ capacity <151 ^b	^b ≥13.1
38 ≤ capacity <151 ^c	^c ≥6.9
capacity ≥151	≥5.2

^a Maximum true vapor pressure of total organic HAP at storage temperature.

^b Beginning no later than the compliance dates specified in § 63.1422(h), these vessel capacity and vapor pressure criteria no longer apply.

^c Beginning no later than the compliance dates specified in § 63.1422(h), these vessel capacity and vapor pressure criteria apply.

- 24. Amend table 4 to subpart PPP of part 63 by adding entries “Butylene Oxide” and “(106887)” after the entry “(106990)” to read as follows:

TABLE 4 TO SUBPART PPP OF PART 63—KNOWN ORGANIC HAP FROM POLYETHER POLYOL PRODUCTS

Organic HAP/chemical name [CAS No.]
* * * * * * * Butylene Oxide. (106887). * * * * * * *

- 25. Revise tables 5 and 6 to subpart PPP of part 63 to read as follows:

TABLE 5 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Thermal Incinerator, other than a thermal oxidizer used to comply with § 63.1425(g).	Firebox temperature ^a	1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS.^c 3. Record the daily average firebox temperature as specified in § 63.1429. 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e}
Thermal oxidizer used to comply with § 63.1425(g).	Combustion chamber temperature [§§ 63.124(b)(5)(i) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the combustion chamber temperature averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block average combustion chamber temperature for each operating day. 4. Report all 1-hour block temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	Flue gas flow rate [§§ 63.124(b)(5)(ii) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the flue gas flow rate averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block average flue gas flow rate for each operating day. 4. Report all 1-hour block flue gas flow rates that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}

TABLE 5 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Catalytic Incinerator	Temperature upstream and downstream of the catalyst bed.	1. Continuous records as specified in § 63.1429.^b 2. Record and report the average upstream and downstream temperatures and the average temperature difference across the catalyst bed measured during the performance test—NCS.^c 3. Record the daily average upstream temperature and temperature difference across catalyst bed as specified in § 63.1429. 4. Report all daily average upstream temperatures that are below the minimum upstream temperature established in the NCS or operating permit—PR.^{d,e} 5. Report all daily average temperature differences across the catalyst bed that are below the minimum difference established in the NCS or operating permit—PR.^{d,e} 6. Report all instances when monitoring data are not collected.^e
Boiler or Process Heater with a design heat input capacity less than 44 megawatts and where the process vents are <i>not</i> introduced with or used as the primary fuel.	Firebox temperature ^a	1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS.^c 3. Record the daily average firebox temperature as specified in § 63.1429.^d 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e}
Flare (if meeting the requirements of § 63.1426(a)(1)).	Presence of a flame at the pilot light	1. Hourly records of whether the monitor was continuously operating during batch emission episodes selected for control and whether a flame was continuously present at the pilot light during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS.^c 3. Record the times and durations of all periods during batch emission episodes when all flames at the pilot light of a flare are absent or the monitor is not operating. 4. Report the times and durations of all periods during batch emission episodes selected for control when all flames at the pilot light of a flare are absent—PR.^d
Flare (if meeting the requirements of § 63.1426(a)(2)).	The parameters are specified in §§ 63.108 and 63.1436.	1. Records as specified in §§ 63.108(m) and 63.1436. 2. Report information as specified in §§ 63.108(l) and 63.1436—PR.^d
Absorber ^f	Liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber.	1. Records every 15 minutes, as specified in § 63.1429.^b 2. Record and report the average liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber, measured during the performance test—NCS. 3. Record the liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber, every 15 minutes, as specified in § 63.1429. 4. Report all scrubber flow rates or pressure drop values that are below the minimum operating value established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e}
	pH of the scrubber	1. Once daily records as specified in § 63.1429.^b 2. Record and report the average pH of the scrubber effluent measured during the performance test—NCS.^c 3. Record at least once daily the pH of the scrubber effluent. 4. Report all pH scrubber effluent readings out of the range established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e} If a base absorbent is used, report all pH values that are below the minimum operating values. If an acid absorbent is used, report all pH values that are above the maximum operating values.
Condenser ^f	Exit (product side) temperature	1. Continuous records as specified in § 63.1429.^b 2. Record and report the average exit temperature measured during the performance test—NCS. 3. Record the daily average exit temperature as specified in § 63.1429. 4. Report all daily average exit temperatures that are above the maximum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e}
Carbon Adsorber ^f	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s), and.	1. Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle. 2. Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the performance test—NCS.^c 3. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is above the maximum flow rate established in the NCS or operating permit—PR.^{d,e}
	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	1. Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s). 2. Record and report the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s) measured during the performance test—NCS.^c 3. Report all carbon bed regeneration cycles when the temperature of the carbon bed after regeneration, or within 15 minutes of completing any cooling cycle(s), is above the maximum temperature established in the NCS or operating permit—PR.^{d,e}
	Outlet HAP or TOC concentration	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator shall record each outlet HAP or TOC concentration measured according to § 63.1429(a)(9)(i) and (ii).
	Adsorbent replacement	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator must record date and time the adsorbent was last replaced.

TABLE 5 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Scrubber with a reactant tank used to comply with § 63.1425(g).	Breakthrough	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator must: 1. Record breakthrough limit and bed life established according to § 63.1429(a)(9)(i). 2. Report the date of each instance when breakthrough, as defined in § 63.101, is detected between the first and second adsorber and the adsorber is not replaced according to § 63.1429(a)(9)(iii)(A)—PR.^g
	Liquid-to-gas ratio [§§ 63.124(b)(4)(i) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the L/G of the scrubber averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block L/G of the scrubber for each operating day. 4. Report all 1-hour block L/G values of the scrubber that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	In lieu of liquid-to-gas ratio, scrubber total liquid flow rate and gas flow rate through scrubber [§§ 63.124(b)(4)(i) and 63.1426(g)].	1. Continuous records.^b 2. Record and report both the total scrubber liquid flow rate and gas flow rate through the scrubber averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block total scrubber liquid flow rate and each 1-hour block gas flow rate through the scrubber for each operating day. 4. Report all 1-hour block total scrubber liquid flow rate values and all 1-hour block gas flow rate through the scrubber values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	pH of liquid in reactant tank [§§ 63.124(b)(4)(ii) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the pH of liquid in reactant tank averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block pH of liquid in reactant tank for each operating day. 4. Report all 1-hour block values of the pH of liquid in reactant tank that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	Pressure drop [§§ 63.124(b)(4)(iii) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the pressure drop of the scrubber averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block pressure drop of the scrubber for each operating day. 4. Report all 1-hour block pressure drop values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	Temperature of scrubbing liquid entering column [§§ 63.124(b)(4)(iv) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the temperature of scrubbing liquid entering column averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block temperature of scrubbing liquid entering column for each operating day. 4. Report all 1-hour block values of the temperature of scrubbing liquid entering column that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
	Liquid feed pressure [§§ 63.124(b)(4)(v) and 63.1426(g)].	1. Continuous records.^b 2. Record and report the liquid feed pressure of the scrubber averaged over the full period of the performance test—NCS.^c 3. Record each 1-hour block liquid feed pressure of the scrubber for each operating day. 4. Report all 1-hour block liquid feed pressure values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR.^{d,e}
Absorber, Condenser, and Carbon Adsorber (as an alternative to the above).	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device.	1. Continuous records as specified in § 63.1429.^b 2. Record and report the average concentration level or reading measured during the performance test—NCS. 3. Record the daily average concentration level or reading as specified in § 63.1429. 4. Report all daily average concentration levels or readings that are above the maximum concentration or reading established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,e}
All Combustion, recovery, or recapture devices.	Diversion to the atmosphere from the combustion, recovery, or recapture device or.	1. Hourly records of whether the flow indicator was operating during batch emission episodes selected for control and whether a diversion was detected at any time during the hour, as specified in § 63.1429. 2. Record and report the times of all periods during batch emission episodes selected for control when emissions are diverted through a bypass line, or the flow indicator is not operating—PR.^d 3. Beginning no later than the compliance dates specified in § 63.1422(h), record and report the start date, start time, duration in hours, estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume, and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours—PR.^d

TABLE 5 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
	Monthly inspections of sealed valves	1. Records that monthly inspections were performed as specified in § 63.1429. 2. Record and report all monthly inspections that show that valves are in the diverting position or that a seal has been broken—PR. ^d 3. For each affected source as described in § 63.1420(a), beginning no later than the compliance dates specified in § 63.1422(h), record and report the start date, start time, duration in hours, estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume, and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours—PR. ^d
ECO	Time from the end of the epoxide feed, or the epoxide partial pressure in the reactor or direct measurement of epoxide concentration in the reactor liquid at the end of the ECO.	1. Records at the end of each batch, as specified in § 63.1427(i). 2. Record and report the average parameter value of the parameters chosen, measured during the performance test. 3. Record the batch cycle ECO duration, epoxide partial pressure, or epoxide concentration in the liquid at the end of the ECO. 4. Report all batch cycle parameter values outside of the ranges established in accordance with § 63.1427(i)(3), all batch cycles as described in § 63.1427(k)(3)(ii), and all instances when monitoring data were not collected—PR. ^{d e}

^a Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.

^b “Continuous records” is defined in § 63.101.

^c NCS = Notification of Compliance Status described in § 63.1429.

^d PR = Periodic Reports described in § 63.1429.

^e The periodic reports shall include the duration of periods when monitoring data are not collected as specified in § 63.1439.

^f Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table.

TABLE 6 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM CONTINUOUS UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Thermal Incinerator, other than a thermal oxidizer used to comply with § 63.1425(g).	Firebox temperature ^a	1. Continuous records as specified in § 63.1429. ^b 2. Record and report the average firebox temperature measured during the performance test—NCS. ^c 3. Record the daily average firebox temperature for each operating day. 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when sufficient monitoring data are not collected—PR. ^{d e}
Thermal oxidizer used to comply with § 63.1425(g).	Combustion chamber temperature [§§ 63.124(b)(5)(i) and 63.1426(g)].	1. Continuous records. ^b 2. Record and report the combustion chamber temperature averaged over the full period of the performance test—NCS. ^c 3. Record each 1-hour block average firebox temperature for each operating day. 4. Report all 1-hour block temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d e}
	Flue gas flow rate [§§ 63.124(b)(5)(ii) and 63.1426(g)].	1. Continuous records. ^b 2. Record and report the flue gas flow rate averaged over the full period of the performance test—NCS. ^c 3. Record each 1-hour block average flue gas flow rate for each operating day. 4. Report all 1-hour block flue gas flow rates that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d e}
Catalytic Incinerator	Temperature upstream and downstream of the catalyst bed.	1. Continuous records as specified in § 63.1429. ^b 2. Record and report the average upstream and downstream temperatures and the average temperature difference across the catalyst bed measured during the performance test—NCS. ^c 3. Record the daily average upstream temperature and temperature difference across catalyst bed for each operating day. 4. Report all daily average upstream temperatures that are below the minimum upstream temperature established in the NCS or operating permit—PR. ^{d e} 5. Report all daily average temperature differences across the catalyst bed that are below the minimum difference established in the NCS or operating permit—PR. ^{d e} 6. Report all operating days when insufficient monitoring data are collected. ^e
Boiler or Process Heater with a design heat input capacity less than 44 megawatts and where the process vents are <i>not</i> introduced with or used as the primary fuel.	Firebox temperature ^a	1. Continuous records as specified in § 63.1429. ^b 2. Record and report the average firebox temperature measured during the performance test—NCS. ^c 3. Record the daily average firebox temperature for each operating day. ^d 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when insufficient monitoring data are collected—PR. ^{d e}
Flare (if meeting the requirements of § 63.1426(a)(1)).	Presence of a flame at the pilot light	1. Hourly records of whether the monitor was continuously operating and whether a flame was continuously present at the pilot light during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS. ^c 3. Record the times and durations of all periods when all flames at the pilot light of a flare are absent or the monitor is not operating. 4. Report the times and durations of all periods when all flames at the pilot light of a flare are absent—PR. ^d

TABLE 6 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM CONTINUOUS UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Flare (if meeting the requirements of § 63.1426(a)(2)).	The parameters are specified in §§ 63.108 and 63.1436.	1. Records as specified in §§ 63.108(m) and 63.1436.
Absorber ^f	Exit temperature of the absorbing liquid, and.	2. Report information as specified in §§ 63.108(l) and 63.1436—PR. ^d
		1. Continuous records as specified in § 63.1429. ^b
		2. Record and report the exit temperature of the absorbing liquid averaged over the full period of the TRE determination—NCS. ^c
		3. Record the daily average exit temperature of the absorbing liquid for each operating day.
		4. Report all the daily average exit temperatures of the absorbing liquid that are below the minimum operating value established in the NCS or operating permit—PR. ^{d,e}
	Exit specific gravity for the absorbing liquid	1. Continuous records as specified in § 63.1429. ^b
		2. Record and report the exit specific gravity averaged over the full period of the TRE determination—NCS.
		3. Record the daily average exit specific gravity for each operating day.
		4. Report all daily average exit specific gravity values that are below the minimum operating value established in the NCS or operating permit—PR. ^{d,e}
Condenser ^f	Exit (product side) temperature	1. Continuous records as specified in § 63.1429. ^b
		2. Record and report the exit temperature averaged over the full period of the TRE determination—NCS.
		3. Record the daily average exit temperature for each operating day.
		4. Report all daily average exit temperatures that are above the maximum operating temperature established in the NCS or operating permit—PR. ^{d,e}
Carbon Adsorber ^f	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s), and	1. Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle.
		2. Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the period of the TRE determination—NCS. ^c
		3. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is above the maximum flow rate established in the NCS or operating permit—PR. ^{d,e}
	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	1. Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s).
		2. Record and report the temperature of the carbon bed after each regeneration during the period of the TRE determination—NCS. ^c
		3. Report all carbon bed regeneration cycles when the temperature of the carbon bed after regeneration is above the maximum temperature established in the NCS or operating permit—PR. ^{d,e}
	Outlet HAP or TOC concentration	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator must record each outlet HAP or TOC concentration measured according to § 63.1429(a)(9)(i) and (ii).
	Adsorbent replacement	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator must record date and time the adsorbent was last replaced.
	Breakthrough	Beginning no later than the compliance dates specified in § 63.1422(h), for each non-regenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.1429(a)(9), the owner or operator must:
		1. Record breakthrough limit and bed life established according to § 63.1429(a)(9)(i).
		2. Report the date of each instance when breakthrough, as defined in § 63.101, is detected between the first and second adsorber and the adsorber is not replaced according to § 63.1429(a)(9)(iii)(A)—PR. ^g
Scrubber with a reactant tank used to comply with § 63.1425(g).	Liquid-to-gas ratio [§§ 63.124(b)(4)(i) and 63.1426(g)].	1. Continuous records. ^b
		2. Record and report the L/G of the scrubber averaged over the full period of the performance test—NCS. ^c
		3. Record each 1-hour block L/G of the scrubber for each operating day.
		4. Report all 1-hour block L/G values of the scrubber that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}
	In lieu of liquid-to-gas ratio, scrubber total liquid flow rate and gas flow rate through scrubber [§§ 63.124(b)(4)(i) and 63.1426(g)].	1. Continuous records. ^b
		2. Record and report both the total scrubber liquid flow rate and gas flow rate through the scrubber averaged over the full period of the performance test—NCS. ^c
		3. Record each 1-hour block total scrubber liquid flow rate and each 1-hour block gas flow rate through the scrubber for each operating day.
		4. Report all 1-hour block total scrubber liquid flow rate values and all 1-hour block gas flow rate through the scrubber values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}
	pH of liquid in reactant tank [§§ 63.124(b)(4)(ii) and 63.1426(g)].	1. Continuous records. ^b
		2. Record and report the pH of liquid in reactant tank averaged over the full period of the performance test—NCS. ^c
		3. Record each 1-hour block pH of liquid in reactant tank for each operating day.
		4. Report all 1-hour block values of the pH of liquid in reactant tank that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}

TABLE 6 TO SUBPART PPP OF PART 63—PROCESS VENTS FROM CONTINUOUS UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Absorber, Condenser, and Carbon Adsorber (as an alternative to the above).	Pressure drop [§§ 63.124(b)(4)(iii) and 63.1426(g)].	1. Continuous records. ^b 2. Record and report the pressure drop of the scrubber averaged over the full period of the performance test—NCS. ^c 3. Record each 1-hour block pressure drop of the scrubber for each operating day. 4. Report all 1-hour block pressure drop values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}
	Temperature of scrubbing liquid entering column [§§ 63.124(b)(4)(iv) and 63.1426(g)].	1. Continuous records. ^b 2. Record and report the temperature of scrubbing liquid entering column averaged over the full period of the performance test—NCS. ^c 3. Record each 1-hour block temperature of scrubbing liquid entering column for each operating day. 4. Report all 1-hour block values of the temperature of scrubbing liquid entering column that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}
	Liquid feed pressure [§§ 63.124(b)(4)(v) and 63.1426(g)].	1. Continuous records. ^b 2. Record and report the liquid feed pressure of the scrubber averaged over the full period of the performance test—NCS. ^c 3. Record each 1-hour block liquid feed pressure of the scrubber for each operating day. 4. Report all 1-hour block liquid feed pressure values that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected—PR. ^{d,e}
	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device.	1. Continuous records as specified in § 63.1429. ^b 2. Record and report the concentration level or reading averaged over the full period of the TRE determination—NCS. 3. Record the daily average concentration level or reading for each operating day. 4. Report all daily average concentration levels or readings that are above the maximum concentration or reading established in the NCS or operating permit—PR. ^{d,e}
All Combustion, recovery, or recapture devices.	Diversion to the atmosphere from the combustion, recovery, or recapture device or	1. Hourly records of whether the flow indicator was operating and whether a diversion was detected at any time during each hour, as specified in § 63.1429. 2. Record and report the times of all periods when the vent stream is diverted through a bypass line, or the flow indicator is not operating—PR. ^d 3. Beginning no later than the compliance dates specified in § 63.1422(h), record and report the start date, start time, duration in hours, estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume, and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours—PR. ^d
	Monthly inspections of sealed valves	1. Records that monthly inspections were performed as specified in § 63.1429. 2. Record and report all monthly inspections that show that valves are in the diverting position or that a seal has been broken—PR. ^d 3. Beginning no later than the compliance dates specified in § 63.1422(h), record and report the start date, start time, duration in hours, estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume, and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours—PR. ^d

^a Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.

^b “Continuous records” is defined in § 63.101.

^c NCS = Notification of Compliance Status described in § 63.1429.

^d PR = Periodic Reports described in § 63.1429.

^e The periodic reports shall include the duration of periods when monitoring data are not collected as specified in § 63.1439.

^f Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table.

■ 26. Revise the heading of table 7 to subpart PPP of part 63 to read as follows:

TABLE 7 TO SUBPART PPP OF PART 63—OPERATING PARAMETERS FOR WHICH MONITORING LEVELS ARE REQUIRED TO BE ESTABLISHED FOR PROCESS VENT STREAMS SUBJECT TO § 63.1429(d)(1)

* * * * *

■ 27. Amend table 8 to subpart PPP of part 63 by removing the entry

“§ 63.1439(e)(6)(iii)” and adding the entry “§ 63.1439(e)(6)(viii)” in its place to read as follows:

TABLE 8 TO SUBPART PPP OF PART 63—ROUTINE REPORTS REQUIRED BY THIS SUBPART

Reference	Description of report	Due date
* * * * *		
§ 63.1439(e)(6)(viii)	Quarterly reports for sources with excursions (upon request of the Administrator).	No later than 60 days after the end of each quarter.
* * * * *		



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Part III

The President

Executive Order 14391—Adjusting Certain Delegations Under the Defense Production Act

Executive Order 14392—Ensuring Truthful Advertising of Products Claiming To Be Made in America

Executive Order 14393—Promoting Access to Mortgage Credit

Executive Order 14394—Removing Regulatory Barriers to Affordable Home Construction

Presidential Documents

Title 3—**Executive Order 14391 of March 13, 2026****The President****Adjusting Certain Delegations Under the Defense Production Act**

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

Section 1. *Purpose.* This order amends Executive Order 13603 of March 16, 2012 (National Defense Resources Preparedness). Executive Order 13603 delegates certain authorities of the President under the Defense Production Act (50 U.S.C. 4501 *et seq.*), to specified executive department and agency (agency) heads. This order also clarifies section 2(a) of Executive Order 14156 of January 20, 2025 (Declaring a National Energy Emergency).

Sec. 2. *Amendment to Executive Order 13603.* Section 203 of Executive Order 13603 is hereby amended by striking the phrase “Secretary of Commerce” and inserting, in lieu thereof, “Secretary of Commerce and the Secretary of Energy, each of whom may exercise such delegated authority independently of the other”.

Sec. 3. *Clarifying Section 2(a) of Executive Order 14156.* For the avoidance of doubt, an agency head need only recommend action to the President under section 2(a) of Executive Order 14156 when the authority to take the recommended action is vested in the President alone and has not been delegated. Section 2(a) of Executive Order 14156 does not require an agency head to make a recommendation to the President when the agency head has authority to take the action by virtue of a delegation pursuant to Executive Order 13603 or other Presidential delegation.

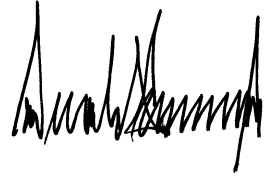
Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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

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

THE WHITE HOUSE,
March 13, 2026.

Presidential Documents

Executive Order 14392 of March 13, 2026

Ensuring Truthful Advertising of Products Claiming To Be Made in America

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

Section 1. Policy. Americans have a right to clear, accurate, substantiated, and accessible information regarding whether products advertised as “Made in America” are actually made in the United States. Protecting American consumers against fraudulent American-origin claims also benefits businesses that invest in American manufacturing and products.

Yet in the age of the modern digital marketplace, foreign manufacturers and sellers represent that their products are made in the United States to target patriotic consumers when, in fact, those products are largely produced and manufactured in other countries. Americans routinely rely on sellers’ “Made in America” or similar American-origin advertising when purchasing products from digital marketplaces. But American businesses building, growing, and manufacturing all, or virtually all, aspects of their products onshore are entitled to the undiluted branding benefits that come with supporting the American economy, and American citizens attempting to buy American products should have certainty as to what American-origin claims mean.

Sec. 2. Implementation. (a) The Chairman of the Federal Trade Commission (FTC) shall, wherever appropriate, prioritize enforcement actions in cases in which a seller’s or manufacturer’s claim that a product is “Made in America” or “Made in the U.S.A.”, or any similar American-origin claims, constitutes a violation of law. In determining whether such claims constitute a violation of law, including an unfair or deceptive act or practice, the FTC shall, as needed, consult with other executive departments and agencies (agencies) with subject-matter expertise with respect to the relevant products.

(b) The FTC shall consider issuing proposed regulations providing that the failure of an online marketplace to establish procedures for verifying country-of-origin claims may constitute an unfair or deceptive act or practice under the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*).

(c) In consultation with the Chairman of the FTC, all agencies with oversight of country-of-origin labeling shall consider promulgating regulations that promote voluntary country-of-origin labeling for products made or manufactured in the United States. Such agencies shall consult with one another, as appropriate, to ensure that American businesses receive consistent guidance on voluntary country-of-origin labeling.

(d) All agencies overseeing Government-wide acquisition contracts, any Multiple Award Schedule, or any other Government-wide indefinite delivery, indefinite-quantity contracts shall periodically review and verify any “Buy American Act”, “Country of Origin USA”, or similar American-origin claims for products acquired through these contracts. For any contractors or vendors found to misrepresent an American-origin status of any product sold to the Government, the relevant agency shall remove the products from Government procurement availability and refer the relevant contractors or vendors to the Department of Justice, which may pursue actions under the False Claims Act (31 U.S.C. 3729 *et seq.*).

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

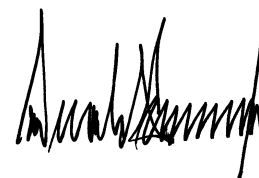
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) The costs for publication of this order shall be borne by the Federal Trade Commission.

A handwritten signature in black ink, appearing to be a stylized name with a long, sweeping horizontal stroke at the end.

THE WHITE HOUSE,
March 13, 2026.

Presidential Documents

Executive Order 14393 of March 13, 2026

Promoting Access to Mortgage Credit

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

Section 1. Purpose. Every American seeking to buy a home should have access to a mortgage from a reliable lender, at a rate commensurate with his or her creditworthiness. Over the past two decades, however, statutory and regulatory changes—including rules adopted under the Dodd-Frank Act, Public Law 111–203, and subsequent rulemakings—have increased the compliance costs of mortgage origination and servicing and distorted the structure of the mortgage market. These burdens have contributed to a significant decline in bank participation in mortgage lending. Community banks, generally institutions with fewer than \$30 billion in assets, have been especially affected. The regulatory and rule changes have undermined community banks’ businesses, concentrated credit and liquidity risk outside the banking system, and resulted in reduced access to credit for some creditworthy borrowers, including rural households and low- and moderate-income households. My Administration will reduce these regulatory burdens to ensure that these creditworthy borrowers can access the capital required to purchase a home.

It is the policy of the United States to improve the availability and affordability of mortgage credit; tailor rules for community banks and “smaller banks” (banks with assets fewer than \$100 billion); reduce the regulatory burden on community banks and otherwise facilitate community bank engagement in mortgage activity; foster innovation, growth, and consumer choice in the mortgage market; modernize origination and closing standards to reduce lending costs; remove regulatory distortions to the structure of the mortgage market and to ensure capital and liquidity frameworks subject similar credit and liquidity risks to similar regulation across the system; promote competition among mortgage lenders of all charter types to drive down mortgage rates; and strengthen housing-finance liquidity.

Sec. 2. Origination and Ability-to-Repay (ATR)/Qualified Mortgage (QM) Reform. (a) The Consumer Financial Protection Bureau (CFPB) shall consider, as appropriate and consistent with applicable law:

- (i) proposing amendments to Regulation Z that tailor the following requirements for smaller banks: ATR and QM requirements (including potentially a broader QM safe harbor for portfolio loans) and the requirements of the Truth in Lending Act, Public Law 90–321 (TILA), Real Estate Settlement Procedure Act, Public Law 93–533 (RESPA), and TILA–RESPA Integrated Disclosure (TRID) rules;
- (ii) replacing TRID timing rules with a materiality-based standard that preserves consumer clarity and reduces closing delays;
- (iii) exempting small-mortgage loans from caps on QM points and fees or, as appropriate, modifying such caps to support affordability;
- (iv) updating regulations regarding banks’ reasonable compliance with ATR and QM underwriting requirements by removing unnecessarily burdensome elements;
- (v) modernizing the right to rescission for mortgage lending, for example, by enabling increased secure electronic and digital forms and processes;

(vi) streamlining the requirements applicable to rate-and-term refinancing under Regulation X mortgage servicing rules; and

(vii) exempting rate-and-term refinancing (including cash-out refinancing) from rescission rights.

(b) The Vice Chairman for Supervision of the Board of Governors of the Federal Reserve System (Federal Reserve), the Director of the CFPB, the Chairman of the National Credit Union Administration (NCUA) Board, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (FDIC), and the Comptroller of the Currency shall consider, as appropriate and consistent with applicable law, revising supervisory guidance to ensure that:

(i) examiners evaluate mortgage lending based on the effectiveness of the lender's policies regarding a consumer's ability to repay and prudent underwriting, rather than the existing focus on process and technical compliance; and

(ii) good-faith, technical compliance errors are subject to correction-first supervisory treatment, with enforcement reserved for borrower harm or repeated misconduct.

Sec. 3. *Modernization of Home Mortgage Disclosure Act (HMDA) Data Collection and Disclosure.* (a) The CFPB shall consider, as appropriate and consistent with applicable law, proposing amendments to Regulation C to raise the asset threshold for exemption from HMDA data collection and reporting requirements for smaller banks, to exclude inquiries from the scope of HMDA, and to ensure that disclosures protect privacy and reduce burdens, including insufficiently tailored, expensive, and complex software and training needed for reporting financial institutions.

Sec. 4. *Capital and Liquidity Alignment.* (a) The Vice Chairman for Supervision of the Federal Reserve, the Chairman of the NCUA Board, the Chairperson of the Board of Directors of the FDIC, the Comptroller of the Currency, and the Director of the Federal Housing Finance Agency (FHFA) shall consider, as appropriate and consistent with applicable law:

(i) revising capital regulations, consistent with appropriate risk-management requirements, to tailor risk weights for all banks, including community banks and other smaller banks, for portfolio mortgages, servicing rights, and warehouse lines of credit to the material credit risk of the exposure;

(ii) modernizing collateral valuation and transfer systems between the Federal Reserve and Federal Home Loan Banks (FHLBs);

(iii) expanding access to longer-dated FHLB advances tied to residential mortgage assets;

(iv) creating targeted FHLB liquidity programs for entry-level housing, owner-occupied purchase loans, and small residential builders;

(v) accelerating collateral boarding and valuation processes through standardized data and digital documentation; and

(vi) refocusing the FHLBs' Affordable Housing Program on faster-cycle execution and greater financial leverage for small-scale and owner-occupied housing projects.

(b) The Director of the FHFA and the Vice Chairman for Supervision of the Federal Reserve shall consider, as appropriate and consistent with applicable law, authorizing FHLBs' intermediate access to the Federal Reserve's discount window for FHLBs' member depository institutions under standardized collateral, operational, and risk-management protocols.

(c) Within 120 days of the date of this order, the Director of the FHFA, in consultation with the heads of other relevant executive departments and agencies, shall submit a report to the Assistant to the President for Economic Policy and the Director of the Office of Management and Budget on the efficiency of national housing finance markets. The report shall identify

recommendations for regulatory or legislative changes necessary to address any regulatory or oversight gaps.

Sec. 5. *Construction and Housing Supply.* (a) The Vice Chairman for Supervision of the Federal Reserve, the Director of the CFPB, the Chairman of the NCUA Board, the Chairperson of the Board of Directors of the FDIC, and the Comptroller of the Currency, shall consider, as appropriate and consistent with applicable law, revising supervisory guidance both to exclude one-to four-family residential development and construction lending from commercial real estate concentration guidance and to ensure supervisory expectations support responsible construction lending by community banks.

Sec. 6. *Appraisal Modernization.* (a) The Vice Chairman for Supervision of the Federal Reserve, the Director of the CFPB, the Chairman of the NCUA Board, the Chairperson of Board of Directors of the FDIC, the Comptroller of the Currency, and the Director of the FHFA shall consider, as appropriate and consistent with applicable law and their statutory authorities:

(i) modernizing appraisal regulations and guidance to expand the use of alternative valuation models, desktop and hybrid appraisals, and artificial intelligence valuation tools;

(ii) simplifying appraiser qualification requirements; and

(iii) reducing appraisal requirements for low-risk transactions, including low loan-to-value refinancing and small-balance loans; and setting clear appraisal timelines.

(b) The Secretary of Housing and Urban Development (HUD) and the Secretary of Veterans Affairs (VA) shall consider, as appropriate and consistent with applicable law:

(i) aligning appraisal standards between the Federal Housing Administration and VA Home Loan Program where risk is comparable;

(ii) clarifying the distinction in an appraisal inspection between safety and habitability concerns that necessitate pre-closing repairs versus cosmetic concerns; and

(iii) expanding post-closing repair flexibility.

Sec. 7. *Digital Mortgage Modernization.* (a) The Secretary of Agriculture, the Secretary of HUD, the Secretary of VA, and the Director of the FHFA shall consider, as appropriate and consistent with applicable law:

(i) eliminating unnecessary wet-signature requirements for disclosures, applications, closing documents, and similar documents;

(ii) standardizing acceptance of electronic signatures, e-notes, and remote online notarization; and

(iii) promoting digital mortgage standards.

Sec. 8. *Servicing and Supervisory Certainty.* (a) The Secretary of HUD, the Vice Chairman for Supervision of the Federal Reserve, the Director of the CFPB, the Chairman of the NCUA Board, the Chairperson of the Board of Directors of the FDIC, and the Comptroller of the Currency shall consider, as appropriate and consistent with applicable law:

(i) aligning supervisory expectations to support portfolio mortgage servicing as a core community banking function; extending cure-first standards to good-faith servicing errors; simplifying loss mitigation requirements; and issuing a proposed rule providing exemptions from complex mortgage services for smaller banks; and

(ii) ensuring that supervisory evaluations of performing, prudently underwritten portfolio loans do not focus on technical defects or rely on evolving supervisory interpretations.

Sec. 9. *Enforcement.* (a) The Vice Chairman for Supervision of the Federal Reserve, the Director of the CFPB, the Chairman of the NCUA Board, the Chairperson of the Board of Directors of the FDIC, and the Comptroller of the Currency shall consider, as appropriate and consistent with applicable law, promulgating a policy against enforcement actions for violations of consumer financial laws that:

- (i) discourages imposing civil monetary penalties, except where the underlying violations are willful, knowing, or reckless;
- (ii) considers good corporate conduct, including a bank's correction of good-faith, technical compliance errors; and
- (iii) allows institutions a reasonable opportunity for self-identification and remediation of appropriate compliance matters.

Sec. 10. *Duplicative or Unnecessary Licensing Requirements.* The Vice Chairman for Supervision of the Federal Reserve, the Director of the CFPB, the Chairman of the NCUA Board, the Chairperson of the Board of Directors of the FDIC, and the Comptroller of the Currency shall consider, as appropriate and consistent with applicable law, eliminating duplicative or unnecessary requirements regarding licensing or registration for mortgage loan officers of any smaller bank.

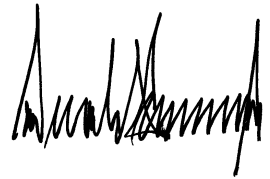
Sec. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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

A handwritten signature in black ink, appearing to be 'Donald Trump', located in the lower right quadrant of the page.

THE WHITE HOUSE,
March 13, 2026.

Presidential Documents

Executive Order 14394 of March 13, 2026

Removing Regulatory Barriers to Affordable Home Construction

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

Section 1. Purpose. The American dream of homeownership depends on a dynamic housing market in which a varied inventory of new homes is built and renovated each year. Layers of unnecessary regulatory barriers, slow permitting processes, and onerous mandates at all levels of government have delayed construction, restricted development, and driven up the costs of new housing. These constraints have made housing less affordable for many Americans.

It is the policy of my Administration to reduce regulatory barriers to building homes and to steward taxpayer dollars in a manner that promotes housing affordability.

Sec. 2. Targeting Federal Regulatory Barriers to Residential Development.

(a) The Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, and the Administrator of the Environmental Protection Agency shall review and revise requirements related to stormwater, wetlands, lakes, rivers, and other bodies of water to reduce housing construction and ownership costs, streamline regulatory and agency decision-making processes, reduce property tax burdens, and increase insurability, as appropriate and consistent with applicable law. Such requirements shall include:

- (i) the Construction General Permit for stormwater discharges from construction activity;
- (ii) federally issued Total Maximum Daily Loads;
- (iii) construction site and post-construction requirements for Municipal Separate Stormwater System permits;
- (iv) Federal standards for permits under section 404 of the Clean Water Act (CWA), 33 U.S.C. 1344, for the discharge of dredged and fill material into waters of the United States; and
- (v) Federal standards for assumption of dredge and fill permitting by States and tribes under section 404(g) of CWA.

(b) The Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Director of the Federal Housing Finance Agency (FHFA) shall, within their respective authorities, consider eliminating unduly burdensome rules and reforming programs that constrain residential development and impede housing affordability, especially the construction of affordable single-family homes as well as suburban and exurban neighborhoods, including, as needed:

- (i) the Economic Development Administration's guidelines and investment priorities concerning development density;
- (ii) the Department of Transportation's Reconnecting Communities Pilot Program;
- (iii) the Department of Housing and Urban Development's Pathways to Removing Obstacles to Housing Program; and
- (iv) the FHFA's guidelines and regulations regarding chattel lending for manufactured housing and incentivizing low-balance home mortgages.

(c) The Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Energy, and the Director of FHFA shall, within their respective authorities, take appropriate action to reform and, where appropriate, eliminate unduly burdensome or costly energy-efficiency, water-use, or alternative-energy requirements regarding housing, including manufactured housing, to the maximum extent practicable and consistent with applicable law. Such action shall include reviewing and revising, as needed:

- (i) the Energy Conservation Program's Energy Conservation Standards for Manufactured Housing;
- (ii) the Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing;
- (iii) residential building energy codes subject to review by the Secretary of Energy; and
- (iv) water and energy efficiency improvement standards for FHFA's duty to serve underserved market properties.

Sec. 3. Streamlining Federal Permitting Requirements for Residential Development. (a) The Chairman of the Council on Environmental Quality shall provide guidance to executive departments and agencies (agencies) on implementing the National Environmental Policy Act of 1969, including through the establishment, adoption, or application of categorical exclusions, in a manner that maximally exempts or reduces burdens on housing construction, preservation, adaptive re-use, and infrastructure that facilitates housing construction, such as roads, water, sewer, and other projects.

(b) The Chairman of the Advisory Council on Historic Preservation shall develop guidance on maximally exempting, or reducing burdens on, housing construction and infrastructure that facilitates housing construction, such as roads, water, sewer, and other projects under section 106 of the National Historic Preservation Act so that reporting requirements are no more burdensome than necessary.

Sec. 4. Boosting Housing Affordability Through State and Local Regulatory Best Practices. (a) Within 60 days of the date of this order, the Secretary of Housing and Urban Development, in coordination with the Assistant to the President for Domestic Policy, shall develop and promulgate a series of regulatory best practices for State and local governments to promote housing construction and affordability, including:

- (i) streamlining permitting processes for housing developments by, for example, capping permitting timelines and fees; allowing by-right development for single-family homes; limiting retroactive application of new or changed building codes; allowing third-party inspections and appropriate builder choice on certified entities for inspections and studies; and ensuring swift dispute resolution with government agencies and private parties regarding construction matters;
- (ii) curtailing mandates that increase housing construction costs, such as green-energy building requirements or other energy-choice restrictions, non-evidence-based building codes, and unreasonable building-code-adoption timelines;
- (iii) re-examining restrictions on the use of manufactured or modular housing on the basis of the construction method rather than objective standards for building and safety, aesthetic requirements, or prohibitions on construction when comparable site-built housing is permitted; and
- (iv) removing arbitrary limitations on residential housing development beyond urban centers, such as urban growth boundaries, growth moratoria, and commuting penalties.

(b) The Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency shall, within their respective authorities, take steps to revise, as appropriate and consistent with applicable law,

regulations, guidance, grant applications and requirements, technical assistance, and other relevant agency documents or practices to advance the best practices issued pursuant to subsection (a) of this section.

Sec. 5. *Facilitating New Residential Construction in Opportunity Zones.*

(a) The Secretary of the Treasury and the Secretary of Housing and Urban Development shall jointly evaluate Administration actions to better align programs and incentives with the Opportunity Zone tax incentives to expand investment in single-family home construction, including considering lawful mechanisms to link grants, financing tools, or other incentives with new or increased investment in Qualified Opportunity Funds engaged in the development and sale of single-family homes.

(b) The Secretary of the Treasury and the Secretary of Housing and Urban Development shall also assess opportunities to coordinate the Opportunity Zone incentives described in subsection (a) of this section with the New Markets Tax Credit under 26 U.S.C. 45D to promote single-family home construction in census tracts that qualify both as Qualified Opportunity Zones and as low-income communities for the purposes of the New Markets Tax Credit.

Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

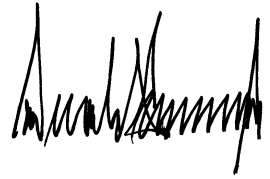
- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

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

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

(d) If any provision of this order, or the application of any provision or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

(e) The costs for publication of this order shall be borne by the Department of Housing and Urban Development.

A handwritten signature in black ink, appearing to be a stylized name with a long, sweeping horizontal stroke at the bottom.

THE WHITE HOUSE,
March 13, 2026.

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