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DEPARTMENT OF ENERGY

10 CFR Part 429

[EERE–2025–BT–STD–0010]

RIN 1904–AF80

Energy Conservation Program: Exempt Power Supplies Under the EPS Service Parts Act of 2014

AGENCY: Office of Critical Minerals and Energy Innovation, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (''DOE'' or ''the Department'') is revising its existing regulations to remove certain reporting requirements imposed on exempt consumer external power supplies (''EPSs'') adopted under the Energy Policy and Conservation Act, as amended.

DATES: The effective date of this rule is May 28, 2026.

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2025-BT-STD-0010.* The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Critical Minerals and Energy Innovation, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 994–8232. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 586–4798. Email: *Eric.Stas@hq.doe.gov.*

For further information on how to review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as the historical background related to the establishment of reporting requirements for EPSs.

A. Authority

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified). Title III, Part B,[2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309, as codified). These products include EPSs, the subject of this document. (42 U.S.C. 6295(u)).

Under EPCA, DOE's energy conservation program consists essentially of four parts:

1. Testing
2. Labeling
3. Establishing Federal energy conservation standards
4. Certifying and enforcing procedures

Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy conservation requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy use or efficiency of covered products. (42 U.S.C. 6297(b)–(c)). DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6297(d)).

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, water use (as applicable), or estimated annual operating cost of each covered product during a representative average use cycle or period of use, and the statute further requires that the test procedure not be unduly burdensome to conduct. (42 U.S.C. 6293, 42 U.S.C. 6295(o)(3)(A), and 42 U.S.C. 6295(r)). Manufacturers of covered products must use the

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, on codification in the U.S. Code, Part B was redesignated Part A.

prescribed DOE test procedure as the basis for certifying to DOE that their product complies with the applicable energy conservation standards and as the basis for any representations regarding the energy use or energy efficiency of the product. (42 U.S.C. 6293(c) and 42 U.S.C. 6295(s)). Similarly, DOE must use these test procedures to evaluate whether a basic model of the product complies with the applicable energy conservation standard(s) adopted according to EPCA. (42 U.S.C. 6295(s)). The DOE test procedures for EPSs appear in the Code of Federal Regulations (''CFR'') at 10 CFR 430.23(bb) and 10 CFR part 430, subpart B, appendix Z.

DOE notes that on December 19, 2007, Congress amended EPCA by enacting the Energy Independence and Security Act of 2007 (''EISA 2007''; Pub. L. 110–140). Section 301 of EISA 2007 established minimum energy conservation standards for Class A EPSs manufactured on or after July 1, 2008. (42 U.S.C. 6295(u)(3)(A); see also 42 U.S.C. 6291(36)(C)(i)–(ii)). EISA 2007 exempts Class A EPSs from meeting these statutorily prescribed standards if the devices were manufactured before July 1, 2015, and made available by the manufacturer as service parts or spare parts for end-use consumer products that were manufactured prior to July 1, 2008. (42 U.S.C. 6295(u)(3)(B)). Congress created this limited (and temporary) exemption as part of a broad range of amendments to EPCA under EISA 2007. The provision did not grant DOE with the authority to expand or extend the length of this exemption, and Congress did not grant DOE with the general authority to exempt any already covered product from the requirements set by Congress.

Subsequently, on December 18, 2014, Congress further amended EPCA by enacting the EPS Service Parts Act of 2014 (''Service Parts Act''; Pub. L. 113–263). That law amended section 325(u) of EPCA (42 U.S.C. 6295(u)) to create a time-limited exemption from the amended energy conservation standards for certain EPSs made available exclusively as service or spare parts. To be exempt under the Service Parts Act, an EPS must meet four separate criteria (codified at 42 U.S.C. 6295(u)(5)(A)(i)). Specifically, the EPS must:

- Be manufactured during the four-year period beginning on February 10, 2016, and ending on February 10, 2020.
- Be marked in accordance with the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016.
- Meet, where applicable, the standards under 42 U.S.C. 6295(u)(3)(A) (*i.e.,* the standards for Class A EPSs) and be certified to DOE as meeting at least International Efficiency Level IV or higher of the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016.
- Be made available by the manufacturer as a service part or spare part for an end-use product that constitutes the primary load and was manufactured before February 10, 2016.

Additionally, the Service Parts Act allowed DOE to limit the applicability of the exemption if the Secretary determines that the exemption is resulting in a significant reduction in the energy savings that would result in the absence of the exemption. (See 42 U.S.C. 6295(u)(5)(A)(iii)). The statute also authorized DOE to provide a similar exemption for EPSs from future energy conservation standards. (See 42 U.S.C. 6295(u)(5)(B)). Finally and most relevant here, the Service Parts Act granted DOE discretionary authority to require manufacturers of exempted EPSs to report to DOE the total number of such EPS units that are shipped annually as service and spare parts and that do not meet those standards. (See 42 U.S.C. 6295(u)(5)(A)(ii)). Congress, therefore, authorized—but did not require—DOE to impose a reporting obligation for exempt EPSs.

DOE is publishing this final rule pursuant to the authority granted under 42 U.S.C. 6295(u)(5)(A)(ii).

B. Background

1. Current Reporting Requirements for Exempted EPSs

The current certification reporting requirements for EPSs are set forth in DOE's regulations at 10 CFR 429.37(b). Reporting requirements directly addressing exempted EPSs are set forth in DOE's regulations at 10 CFR 429.37(b)(3) and (c). More specifically, 10 CFR 429.37(b)(3) provides that (according to 10 CFR 429.12(b)(13)) a certification report for EPSs that are exempt from the energy conservation standards at 10 CFR 430.32(w)(1)(ii) according to 10 CFR 430.32(w)(2) of this chapter must include the total number of units of exempt EPSs sold during the most recent 12-calendar-month period ending on July 31, starting with the annual report due on September 1, 2017, if, in aggregate, the total number of exempt EPSs sold as spare and service parts by the certifier exceeds 1,000 units across all models.

Furthermore, 10 CFR 429.37(c) provides that for external power supplies that are exempt from energy conservation standards according to 10 CFR 430.32(w)(2) of this chapter and are not required to be certified according to 10 CFR 429.12(a) as compliant with an applicable standard, the importer or domestic manufacturer must, no later than September 1, 2017, and annually by each September 1 thereafter, submit a report if, in aggregate, the total number of exempt EPSs sold as spare and service parts by the importer or manufacturer exceeds 1,000 units across all models. This report must include:

- The importer or domestic manufacturer's name and address
- The brand name
- The number of units sold during the most recent 12-calendar-month period ending on July 31

The report must be submitted to DOE in accordance with the submission procedures set forth in 10 CFR 429.12(h).

2. History of Reporting Requirements Rulemakings for Exempted EPSs

DOE exercised its discretionary authority to require exempted EPS reporting in 2015. On November 18, 2015, DOE published a notice of proposed rulemaking (''NOPR'') in the **Federal Register** proposing to codify the provisions of the EPS Service Parts Act of 2014 within the CFR and solicited comment from the public. (80 FR 71984). As part of that NOPR, DOE sought comment on a number of specific issues, including how manufacturers produce spare or service parts as compared with how manufacturers produce EPS units provided with a new product, the specific language that should be codified regarding the exemption of certain EPSs sold as service or spare parts, and the reporting timeframe for importers and domestic manufacturers to report the total number of units sold in the prior year. DOE analyzed and addressed all of the public comments received in response to the 2015 NOPR when preparing the final rule.

On May 16, 2016, DOE published a final rule in the **Federal Register** (''May 2016 Final Rule''), which incorporated the statutory provisions into its regulations at 10 CFR 430.32(w)(2)(i), as well as provided some clarification on the circumstances under which EPSs would be considered spare or service parts. More specifically, DOE clarified that although exempt EPSs are not required to meet the amended Level VI standards, they remain subject, as applicable, to the existing Class A EPS standards at International Efficiency Level IV and must be certified in accordance with 10 CFR 430.32(w)(2)(iii). Most relevant here,

DOE's final rule also required manufacturers who manufacture 1,000 or more exempt EPSs to annually report to DOE the total number of units of exempt EPSs shipped as service and spare parts that do not meet the 2016 standards. (81 FR 30157, 30163). As noted previously, these annual reporting requirements are currently codified in DOE's regulations at 10 CFR 429.37(b)(3) and (c).

Most recently, on May 16, 2025, DOE published in the **Federal Register** a notice of proposed rulemaking (''May 2025 NOPR''), proposing to rescind, in part, the reporting requirements for exempt EPSs adopted by DOE in the May 2016 Final Rule. In the May 2025 NOPR, DOE stated that it was proposing a new policy to reduce regulatory burden wherever possible and that, unless a reporting requirement is required by statute, the Secretary would propose eliminating that requirement. (90 FR 20831, 20832). Therefore, in the May 2025 NOPR, DOE proposed to rescind the reporting requirements for exempted EPS specified in the EPS Service Parts Act of 2014 in their entirety and sought comment on all aspects of that proposal, including but not limited to the prior rule's consistency with statutory authority and the Constitution, the prior rule's costs and benefits, and the prior rule's effect on innovation, development, and private enterprise. (*Id*).

DOE received comments in response to the May 2025 NOPR from the interested parties listed in Table I.1.

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE MAY 2025 NOPR

Commenter(s)	Reference in this final rule	Comment No. in the docket	Commenter type
Association of Home Appliance Manufacturers, Consumer Technology Association, Information Technology Industry Council, National Electrical Manufacturers Association, Power Tool Institute.	AHAM *et al*	12	Trade Associations.
Center for Biological Diversity	CBD	9	Advocacy Organization.
District of Columbia Department of Energy and Environment, Maine Governor's Energy Office, Maryland Energy Administration, Massachusetts Department of Energy Resources, Minnesota Department of Commerce, New York State Energy Research and Development Authority, and Washington State Department of Commerce.	DOEE *et al*	10	State Agencies.
Anonymous	Anonymous	2	Individual.
Daniel Simpson	Simpson	7	Individual.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record and page number of that document.[3] To the extent that interested parties have provided written comments that are substantively consistent with any oral comments provided during the May 29, 2025, public meeting, DOE cites the written comments throughout this final rule. DOE did not identify any oral comments provided during the May 29, 2025, public meeting that are not also substantively addressed by written comments.[4]

II. General Discussion and Rationale for Action

DOE has determined that it has a good reason to consider rescission of the existing reporting requirements for exempted EPSs. The scope of the exemption was inherently limited by the fixed manufacturing window ending February 10, 2020, and by the requirement that exempt EPSs be used only to support end-use products manufactured before February 10, 2016. With time, the number of EPSs eligible for the exemption has naturally declined because no EPSs manufactured after February 10, 2020, can qualify and because the population of end-use products manufactured before February 10, 2016, has continued to decrease as they age and are retired from use. Correspondingly, DOE has observed that the number of exempt EPSs reported under 10 CFR 429.37 has diminished significantly in recent years. As of November 2025, DOE's research revealed that 17 exempt EPSs are certified by five different manufacturers out of approximately 13,000 EPS basic models by 750 different manufacturers in DOE's Compliance Certification Database. Given these conditions, the exemption and more so the reporting requirements established by the EPS Service Parts Act currently have limited practical effect. Moreover, because the Act did not provide any exemption for EPSs manufactured after February 10, 2020, all EPSs manufactured today are required to meet the current Level VI energy conservation standards and must be certified accordingly.

In response to the May 2025 NOPR, CBD and DOEE *et al.* generally opposed the proposal to rescind the reporting requirements for exempted EPSs, while AHAM *et al.* generally supported the proposal. (CBD, No. 9 at p. 1; DOEE *et al.,* No. 10 at p. 1; AHAM *et al.,* No. 12 at p. 1). Two individuals also expressed opposition, although their concerns focused on rescission of EPS standards, an action not proposed in the subject May 16, 2025, NOPR. (Anonymous, No. 2 at p. 1; Simpson, No. 7 at p. 1). Specific comments are discussed in detail in the following sections.

A. Legal Issues

In response to the May 2025 NOPR, DOE received several comments on the legal impacts of the proposed changes. CBD commented that DOE's proposed rulemaking to rescind EPS reporting requirements ignores congressional mandates. (CBD, No. 9 at p. 2). In particular, CBD commented that DOE's action violates EPCA's anti-backsliding provision at 42 U.S.C. 6295(o)(1) because it weakens existing standards. (CBD, No. 9 at p. 2).

In response, DOE believes that CBD miscomprehends the nature and purpose of DOE's proposal, as well as the related provisions of EPCA that gave rise to the existing reporting requirements. As EPCA makes clear at 42 U.S.C. 6295(u)(5)(A)(ii), Congress provided the Secretary of Energy with discretion to require manufacturers of exempted EPSs to report annual total units shipped as service and spare parts that fall below International Efficiency

[3] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to rescind reporting requirements for exempted EPSs. (Docket No. EERE–2025–BT–STD–0010, which is maintained at: *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number at page of that document).

[4] DOE also received one comment extension request from the Association of Home Appliance Manufacturers (AHAM). (AHAM, No. 8 at pp. 1–2)

Level VI. However, the statute does not require DOE to impose such reporting requirement, so it is incorrect to suggest that DOE's action to rescind such reporting requirements would ignore any congressional mandate. It is likewise incorrect that DOE's action would weaken existing standards in violation of EPCA's anti-backsliding provision because this rulemaking would not affect the energy conservation standards for EPSs. Instead, this rule simply acknowledges changed circumstances regarding a time-limited exemption whose period of relevance has largely waned. The number of EPSs that continue to qualify for exemption has decreased significantly since 2020, and DOE has received declining reports of exempt EPS shipments in recent years. Because the reporting requirement concerns a category of products that are no longer being manufactured and that are diminishing in market relevance, DOE has determined that continued reporting will not result in any additional meaningful insight. Accordingly, DOE is removing this regulatory reporting burden, which no longer provides an appreciable benefit.

CBD also argued that the May 2025 NOPR is procedurally flawed, commenting that while DOE provided justification for these regulations when they were established, it has not provided justification for the proposed change to rescind them. (CBD, No. 9 at p. 2). Further, CBD stated that DOE's proposal violates the Administrative Procedure Act's (''APA'') requirement that agencies implement statutory objectives in line with the language and purpose of the statute (*see Loper Bright Enterprises* v. *Raimondo*, 603 U.S. 369 (2024)). (*Id.*). Additionally, CBD commented that DOE's proposed rule violates the APA because it states that an agency action must not be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law (*see* 5 U.S.C. 706(2)(A)). (CBD, No. 9 at p. 2). CBD stated that when agencies take action or rescind a standard, they must examine relevant data and articulate a rational connection between facts and the policy choice made (*see Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983)), and the commenter asserted that in the present case, DOE did not provide any reasoned explanation or evidence for rescinding the EPS reporting requirements. (CBD, No. 9 at p. 2). CBD also stated DOE has not followed the legal requirement that a policy reversal must be based on factual findings and account for reliance interests. (*Id.*). CBD commented that, at a minimum, DOE should issue a new proposed rulemaking and allow public comments before moving forward. (*Id.*).

In response, DOE disagrees with CBD's contention that it has not articulated a rationale to justify its proposal to rescind the subject reporting requirements for exempted EPSs. In the May 16, 2025, NOPR, DOE clearly stated its new policy to reduce regulatory burden wherever possible, including reporting requirements not required by statute. (90 FR 20831, 20832). As noted previously, under the relevant provision of EPCA, Congress permitted but did not require DOE to report annual shipments of EPSs, so removal of those reporting provisions cannot run counter to the language and purpose of the statute, given that DOE was never required to adopt such provisions in the first place. DOE reasoned that the time-limited nature of the exemption and the passage of significant time offer a *prima facie* case demonstrating why the reporting requirement is no longer needed. What was once a useful source of information now represents an administrative burden that no longer provides an appreciable benefit. Furthermore, given rapidly dwindling shipments of the exempted EPSs, DOE has found no significant reliance interest in continued reporting of shipment of the subject exempted EPSs. For these reasons, DOE has concluded that it is legally permissible and appropriate to promulgate this final rule without the need for further proceedings.

CBD further commented that DOE must comply with the National Environmental Policy Act (''NEPA'') when carrying out the proposed deregulatory action, and the commenter asserted that contrary to DOE's claims, none of the NEPA's categorical exclusions are applicable in this case. (CBD, No. 9 at p. 2).

Contrary to CBD's view, in the May 2025 NOPR, DOE analyzed the proposed rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021) in effect at the time of the May 2025 NOPR's publication. As discussed elsewhere in this document, the May 2025 NOPR proposed to relieve manufacturers of an administrative reporting requirement. As an administrative action, it is unlikely to affect the environment. In the May 2025 NOPR, DOE anticipated that the proposal would qualify for a categorical exclusion under appendices A or B to subpart D of part 1021 because the NOPR was an interpretation or ruling with respect to an existing regulation and otherwise met the requirements for application of a categorical exclusion. (90 FR 20831, 20832 (May 16, 2025)). In the May 2025 NOPR, DOE specifically referenced consideration of categorical exclusion B5.1 (Actions to conserve energy or water), although the agency also was open to considering other potential categorical exclusions (*e.g.,* A5 (Interpretive rulemakings with no change in environmental effect) or A6 (Procedural rulemakings)).

In July 2025, DOE amended part 1021 to contain only administrative and routine actions excepted from NEPA review in appendix A (formerly categorical exclusions) based on the definition of ''major Federal action'' in section 111(10) of NEPA (*see* 90 FR 29676 (July 3, 2025)), and, concurrently, DOE issued Implementing Procedures.[5] DOE has determined that this final rule to revise the reporting requirements for exempt EPSs is not a rulemaking to establish energy conservation standards for consumer products and industrial equipment and categorical exclusion B5.1 (Actions to conserve energy or water) is not applicable, and it is an administrative and routine action. Therefore, it is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and no further environmental review is needed.

B. Consumer Impacts

In response to the May 2025 NOPR, DOE received comments regarding the impacts for consumers due to the proposed changes. DOEE *et al.* commented that rescinding EPS reporting requirements would end a valuable data reporting program that helps provide a better understanding of the market for exempt EPSs. (DOEE *et al.,* No. 10 at pp. 1–2).

DOE acknowledges the interest expressed by DOEE *et al.* in continued access to market data; however, the statutory exemption underlying the reporting requirement applied only to EPSs manufactured between February 10, 2016, and February 10, 2020. The number of EPSs that continue to qualify for exemption has decreased significantly since 2020, and DOE has received declining reports of exempt EPS shipments in recent years. As noted previously, as of November 2025, DOE's research revealed that there are 17 exempt EPSs certified by five different manufacturers out of a total of approximately 13,000 EPS basic models by 750 different manufacturers in DOE's Compliance Certification Database. Because the reporting requirement

[5] Available at: *https://www.energy.gov/sites/default/files/2025-06/2025-06-30-DOE-NEPA-Procedures.pdf.*

concerns a category of products that are no longer being manufactured and that are diminishing in market relevance, DOE has determined that continued reporting will not result in any additional meaningful insight.

CBD commented that the proposed recission would increase energy consumption and costs for consumers. (CBD, No. 9 at pp. 1–2). An individual, stating opposition to the proposed recission, commented that sound regulations that promote conservation help fight inflation and tariffs, keeping products inexpensive. (Anonymous, No. 2 at p. 1).

In response, DOE does not agree with these comments, because they appear to misconstrue the purpose and effect of the May 2016 proposal. This final rule does not alter any energy conservation standard applicable to EPSs, nor does it expand the statutory exemption created by the EPS Service Parts Act. EPSs manufactured after February 10, 2020, must continue to meet the applicable Level VI standards and be certified accordingly. As the rescission solely impacts a reporting obligation without changing any product efficiency requirements, DOE does not expect this final rule to result in increased energy use or consumer costs nor to have any bearing on inflation, tariffs, or product prices.

C. Manufacturer Impacts

In response to the May 2025 NOPR, DOE received comments on the impacts for manufacturers due to the proposed changes. DOEE *et al.* opposed the proposal to rescind the EPS reporting requirements, arguing that it would negatively impact businesses in their States. (DOEE *et al.,* No. 10 at p. 1). DOEE *et al.* stated that manufacturers have already invested time and money into complying with these requirements. (*Id.*). An individual stated that the time, cost, and research to develop a standard that benefits consumers, industry, and the national economy have already been invested, and regressing the standard disregards the resources and efforts put into developing it. (Simpson, No. 7 at p. 1). An individual additionally stated that the current regulations ensure the U.S. remains competitive with global markets, and rescinding standards would diminish both U.S. standing in the international market and the potential for addressing the ''trade imbalance.'' (Simpson, No. 7 at p. 1).

In response, DOE once again notes that this final rule does not modify any existing energy conservation standard for EPSs. Instead, it addresses a reporting requirement that applied only to EPSs manufactured between 2016 and 2020 that qualified for a statutory exemption, one which is no longer available today. Manufacturers of current EPS models are subject to the same requirements before and after this final rule and, therefore, will not experience regulatory changes affecting competitiveness or product development. DOE has concluded that this final rule will benefit manufacturers and their competitiveness by eliminating the regulatory burden associated with a largely outdated reporting requirement.

AHAM *et al.* supported DOE's proposal to eliminate the reporting requirement for exempted EPSs. (AHAM *et al.,* No. 12 at p. 1). AHAM *et al.* stated that these data are not necessary to demonstrate compliance with energy conservation standards and the collection places an undue burden on manufacturers. (*Id.*). AHAM *et al.* stated that this proposal is a meaningful step towards reducing regulatory burden without affecting clarity regarding which EPSs are exempt. (*Id.*).

DOE acknowledges the support of AHAM *et al.* As explained, DOE determined that continued reporting of exempt EPS shipments is no longer necessary due to the expiration of the manufacturing window in 2020 and the diminishing population of EPSs that qualify for the exemption. Eliminating the reporting requirement reduces burden while having no effect on any existing efficiency standards for EPSs.

D. Infrastructure and Environmental Impacts

In response to the May 2025 NOPR, DOE received comments on the infrastructure and environmental impacts due to the proposed changes. CBD commented that the proposed recission would increase pollution that is harmful to communities across the country and exacerbate the climate emergency. (CBD, No. 9 at pp. 1–2). An individual commented that fossil fuel consumption has contributed to increased frequency and intensity of natural disasters. (Anonymous, No. 2 at p. 1).

As noted previously, the action of this final rule does not modify any energy conservation standards for EPSs. Because this rule affects only reporting requirements and has no impact on product efficiency or performance, it does not alter emissions or energy consumption, so it should not have any environmental or infrastructure impacts.

E. Conclusion

After carefully considering public comments and for the reasons explained in this document, DOE has decided to finalize its proposal to rescind the reporting requirements for exempt EPSs as originally proposed.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Section 6(a) of Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires agencies to submit ''significant regulatory actions'' to the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') for review. OIRA has determined that this final rule does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. (68 FR 7990). DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This final rule is limited in effect to rescinding an administrative reporting requirement. Therefore, on the basis of the foregoing, DOE concludes that the impacts of its burden-reducing proposal would not have a ''significant economic impact on a substantial number of small entities,'' and, therefore, the preparation of a FRFA is not warranted. DOE has transmitted this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business

Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This final rule would impose no new information or record-keeping requirements. Under existing provisions, manufacturers of covered products/equipment must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for such products/equipment, including any amendments adopted for those test procedures, on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment (see generally 10 CFR part 429). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor must any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Specifically, this final rule would remove a reporting requirement for exempted EPSs, so accordingly, it does not add any collection of information requirement that would trigger the PRA. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

In the May 2025 NOPR, DOE analyzed the proposed rule in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021) in effect at the time of the May 2025 NOPR's publication. As discussed elsewhere in this document, the May 2025 NOPR proposed to relieve manufacturers of an administrative reporting requirement; as an administrative action, it is unlikely to have any impact on the environment. In the May 2025 NOPR, DOE anticipated that the proposal would qualify for a categorical exclusion under appendices A or B to subpart D of part 1021 because the NOPR was an interpretation or ruling with respect to an existing regulation and otherwise met the requirements for application of a categorical exclusion. (90 FR 20831, 20832 (May 16, 2025)). In the May 2025 NOPR, DOE specifically referenced consideration of categorical exclusion B5.1 (Actions to conserve energy or water), although the agency also was open to considering other potential categorical exclusions (*e.g.,* A5 (Interpretive rulemakings with no change in environmental effect) or A6 (Procedural rulemakings).

In July 2025, DOE amended part 1021, in relevant part, by revising appendix A (formerly categorical exclusions) (see 90 FR 29676 (July 3, 2025)), and, concurrently, DOE issued Implementing Procedures.[6] The actions formally identified in appendix A to part 1021 now represent administrative and routine actions that are excepted from NEPA based on the definition of ''major Federal action'' in section 111(10) of NEPA. DOE has determined that this final rule to revise the reporting requirements for exempt EPSs is not a rulemaking to establish energy conservation standards for consumer products and industrial equipment, and so categorical exclusion B5.1 (Actions to conserve energy or water) is not applicable. This final rule is an administrative and routine action. Therefore, it is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and no further environmental review is needed.

E. Review Under Executive Order 13132

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

DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption based on criteria set forth in EPCA. (42 U.S.C. 6297(d)). No further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements:

- Eliminate drafting errors and ambiguity
- Write regulations to minimize litigation
- Provide a clear legal standard for affected conduct rather than a general standard
- Promote simplification and burden reduction

Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation:

- Clearly specifies the preemptive effect, if any
- Clearly specifies any effect on existing Federal law or regulation
- Provides a clear legal standard for affected conduct while promoting simplification and burden reduction
- Specifies the retroactive effect, if any
- Adequately defines key terms
- Addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General

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

[6] Available at: *https://www.energy.gov/sites/default/files/2025-06/2025-06-30-DOE-NEPA-Procedures.pdf.*

meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

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

DOE examined this final rule according to UMRA and DOE's statement of policy and has determined that the rule, which reduces regulatory burdens, does not contain a Federal intergovernmental mandate nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, no further assessment or analysis is required under UMRA.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any policy or regulation that may affect family well-being. When developing a Family Policymaking Assessment, agencies must assess whether:

- The action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment.
- The action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children.
- The action helps the family perform its functions or substitutes governmental activity for the function.
- The action increases or decreases disposable income or poverty of families and children.
- The proposed benefits of the action justify the financial impact on the family.
- The action may be carried out by State or local government or by the family.
- The action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society.

This final rule, which eliminates an administrative reporting requirement for exempted EPSs, would not have any financial impact on families nor any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it does not need to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

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

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

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

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

K. Review Under Executive Order 13211

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

- Is a significant regulatory action under E.O. 12866, or any successor E.O., and is likely to have a significant adverse effect on the supply, distribution, or use of energy.
- Is designated by the Administrator of OIRA as a significant energy action.

For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the regulation be implemented and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which removes an administrative reporting requirement for exempted EPSs, is not a significant energy action because it is not significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects for this final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information must be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the rulemaking analyses for energy conservation standards are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' (*Id.* at 70 FR 2667).

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a Peer Review report pertaining to the rulemaking analyses for energy conservation standards.[7] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to judge the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[8]

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy,'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' 90 FR 9065 (Feb. 6, 2025); and Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,'' 90 FR 8245 (Jan. 28, 2025).

This final rule has been determined to be an ''E.O. 14192 deregulatory action'' because it intends to reduce the burden to society by streamlining the regulatory framework and improving efficiency for regulated entities. The primary impact from the final rule is to eliminate the regulatory burden associated with a largely outdated administrative reporting requirement for exempted EPSs. This final rule allows manufacturers to focus their resources on matters of importance to them. These benefits are difficult to quantify, although DOE believes them to be positive. Even small positive changes, when aggregated, can result in meaningful burden reduction for industry.

[7] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at *energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (Last accessed Dec. 9, 2025).

[8] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards* (Last accessed Dec. 9, 2025).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on March 27, 2026, by Audrey Robertson, Assistant Secretary (EERE) for Critical Minerals and Energy Innovation, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 24, 2026.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is amending part 429 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.37 [Amended]

■ 2. Amend § 429.37 by removing paragraphs (b)(3) and (c).

[FR Doc. 2026–08201 Filed 4–27–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0016; Project Identifier MCAI–2025–01450–E; Amendment 39–23320; AD 2026–08–12]

RIN 2120–AA64

Airworthiness Directives; Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2024–24–02 for all Safran Helicopter Engines, S.A. (Safran) Model ARRIUS 2F engines. AD 2024–24–02 required removal of the affected fuel control unit (FCU) from service and replacement with a serviceable part. Since the FAA issued AD 2024–24–02, it was determined that certain serial numbers of the affected FCUs are not subject to the unsafe condition. This AD requires removal of the affected FCU from service and replacement with a serviceable part. This AD also reduces the number of affected FCUs. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 2, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 2, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–0016; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

• You may view this material at the FAA, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–0016.

FOR FURTHER INFORMATION CONTACT: David Bergeron, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386–1805; email: *david.j.bergeron@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2024–24–02, Amendment 39–22892 (89 FR 92789, November 25, 2024), (AD 2024–24–02). AD 2024–24–02 applied to all Safran Model ARRIUS 2F engines. AD 2024–24–02 required removal of the affected FCU from service and replacement with a serviceable part. The FAA issued AD 2024–24–02 to detect and correct missing lubricating and balancing grooves on the bearings of the FCU fuel pump.

The NPRM was published in the **Federal Register** on January 20, 2026 (91 FR 2319). The NPRM was prompted by EASA AD 2024–0202R1, dated September 8, 2025 (EASA AD 2024–0202R1) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA AD 2024–0202R1 superseded EASA Emergency AD 2024–0202–E, dated October 22, 2024 (EASA Emergency AD 2024–0202–E). The MCAI states that since EASA Emergency AD 2024–0202–E was issued, the manufacturing cards were reviewed and it was determined that certain serial numbers were not subject to the non-conforming manufacturing process.

In the NPRM, the FAA proposed to retain all of the requirements of AD 2024–24–02. The NPRM proposed to require removal of the affected FCU from service and replacement with a serviceable part, and proposed to reduce the number of affected FCUs, as specified in the MCAI.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0016.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0202R1, which specifies procedures for replacement of the affected parts with serviceable parts. The MCAI also specifies prohibiting installation of affected parts on an engine.

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

Costs of Compliance

The FAA estimates that this AD affects five engines installed on helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace the FCU	1 work-hour × $85 per hour = $85	$20,650	$20,735	$103,675

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2024–24–02, Amendment 39–22892 (89 FR 92789, November 25, 2024); and
■ b. Adding the following new airworthiness directive:

2026–08–12 Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.): Amendment 39–23320; Docket No. FAA–2026–0016; Project Identifier MCAI–2025–01450–E.

(a) Effective Date

This airworthiness directive (AD) is effective June 2, 2026.

(b) Affected ADs

This AD replaces AD 2024–24–02, Amendment 39–22892 (89 FR 92789, November 25, 2024) (AD 2024–24–02).

(c) Applicability

This AD applies to Safran Helicopter Engines, S.A. (Type Certificate previously held by Turbomeca, S.A.) Model ARRIUS 2F Engines, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0202R1, dated September 8, 2025 (EASA AD 2024–0202R1).

(d) Subject

Joint Aircraft System Component (JASC) Code 7314, Engine Fuel Pump.

(e) Unsafe Condition

This AD was prompted by a report of an uncommanded in-flight shut-down (IFSD) of a Safran Model ARRIUS 2F engine, followed by an investigation that revealed the IFSD was due to a missing lubricating and balancing groove on one of the bearings of the fuel control unit (FCU) fuel pump related to a non-conforming manufacturing process, and the determination that certain serial numbers of the affected FCUs are not affected by the unsafe condition. The FAA is issuing this AD to detect and correct missing lubricating and balancing grooves on the bearings of the FCU fuel pump and reduce the number of affected serial numbers. The unsafe condition, if not addressed, could result in an uncommanded IFSD and a significant reduction of the control of a single engine helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Do all required actions within the compliance times specified in, and in accordance with EASA AD 2024–0202R1.

(h) Exceptions to EASA AD 2024–0202R1

(1) Where EASA AD 2024–0202R1 refers to ''October 24, 2024 [the effective date of the original issue of this AD],'' this AD requires using December 10, 2024 (the effective date of AD 2024–24–02).

(2) Although the service information referenced in EASA AD 2024–0202R1 specifies to return the FCU to a Repair Center approved by Safran Helicopter Engines, this AD requires removing those parts from service.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0202R1.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2024–0202R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Additional Information

For more information about this AD, contact David Bergeron, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386–1805; email: *david.j.bergeron@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0202R1, dated September 8, 2025.

(ii) [Reserved]

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

(4) You may view this material at FAA, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on April 20, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–08225 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–1183; Airspace Docket No. 25–ASO–12]

RIN 2120–AA66

Amendment of Class E Airspace; Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published by the FAA in the **Federal Register** on February 13, 2026, amending Class D and E airspace in Miami, FL, and implementing administrative updates to the coordinates for the LAYDN Initial Approach Fix (IAF). However, there were inaccuracies in two of the airport names within the Class E5 legal description. Therefore, this action corrects that final rule by correcting the airport names.

DATES: The effective date of the final rule published in the **Federal Register** on February 13, 2026, remains 0901 UTC, July 9, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Rachel Cruz, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–5571.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2025–1183, (91 FR 6751; February 13, 2026) to amend Class D and Class E airspace for Miami, FL. After publication, the FAA discovered errors in two airport names. Accordingly, this action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the final rule for Docket No. FAA–2025–1183, as published in the **Federal Register** on February 13, 2026 (91 FR 6751; FR Doc. 2026–02919), is corrected as follows:

On page 6752, in the second and third columns, the legal description for ''ASO FL E5 Miami, FL [Amended]'' is revised to read as follows:

ASO FL E5 Miami, FL [Amended]

Miami International Airport, FL
(Lat. 25°47′43″ N, long. 80°17′24″ W)
Homestead ARB
(Lat. 25°29′19″ N, long. 80°23′01″ W)
Miami Opa-Locka Executive Airport
(Lat. 25°54′27″ N, long. 80°16′42″ W)
Fort Lauderdale-Hollywood International Airport
(Lat. 26°04′18″ N, long. 80°08′59″ W)
Miami Executive Airport
(Lat. 25°38′51″ N, long. 80°26′00″ W)
LAYDN IAF
(Lat. 25°38′22″ N, long. 80°31′28″ W) Fort Lauderdale Executive Airport
(Lat. 26°11′50″ N, long. 80°10′15″ W) Pompano Beach Airpark
(Lat. 26°14′50″ N, long. 80°06′40″ W) North Perry Airport
(Lat. 26°00′05″ N, long. 80°14′26″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miami International Airport, Homestead ARB, Miami Opa-Locka Executive Airport, Fort Lauderdale-Hollywood International Airport, and Miami Executive Airport, and within 2.4 miles each side of the 267° bearing from the LAYDN IAF extending from the 7-mile radius to 7 miles west of the IAF, and within a 6.5-mile radius of Fort Lauderdale Executive Airport, Pompano Beach Airpark and North Perry Airport.

* * * * *

Issued in College Park, Georgia, on April 23, 2026

Patrick Young,

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

[FR Doc. 2026–08191 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 26–09]

RIN 1685–AA43

Extension of Emergency Import Restrictions Imposed on Archaeological and Ethnological Material of Afghanistan

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect an extension of emergency import restrictions on certain archaeological and ethnological material from Afghanistan, which were originally imposed in CBP Decision 22–04. The regulations are also being updated to refer specifically to the material being restricted in a manner consistent with CBP's other listed cultural property restrictions. The CBP regulations are being amended to reflect this updated language, as well as this extension of import restrictions through April 28, 2029.

DATES: Effective April 28, 2026.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *otrculturalproperty@cbp.dhs.gov*. For operational aspects, Christopher Mabelitini, Director, Intellectual Property Rights Policy & Programs, Trade Programs Directorate, Office of Trade, (571) 296–1269, *1USGBranch@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (CPIA), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)) (the Convention), allows for the conclusion of an agreement between the United States and another party to the Convention to impose import restrictions on eligible archaeological and ethnological material. In certain limited circumstances, the CPIA authorizes the imposition of restrictions on an emergency basis (19 U.S.C. 2603). The emergency restrictions are effective for no more than five years from the date of the State Party's request and may be extended for three years where it is determined that the emergency condition continues to apply with respect to the covered material (19 U.S.C. 2603(c)(3)). These restrictions may also be continued, in whole or in part, pursuant to an agreement concluded within the meaning of the CPIA (19 U.S.C. 2603(c)(4)).

Pursuant to 19 U.S.C. 2602(a), Afghanistan, a State Party to the Convention, requested on April 28, 2021, that import restrictions be imposed on certain archaeological and ethnological material, the pillage of which jeopardizes the cultural heritage of Afghanistan. On November 16, 2021, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, made the determinations necessary under the Act for the emergency imposition of the import restrictions. The restrictions were subsequently imposed on archaeological material ranging in date from approximately 50,000 B.C. to A.D. 1747, and ethnological material including architectural objects and wooden objects associated with Afghanistan's diverse history, ranging from approximately the 9th century A.D. to A.D. 1920. On February 22, 2022, U.S. Customs and Border Protection (CBP) published a final rule (CBP Dec. 22–04) in the **Federal Register** (87 FR 9439), which amended 19 CFR 12.104g(b) to reflect the imposition of these restrictions and included a list designating the types of archaeological and ethnological material covered by the restrictions.

On March 18, 2026, pursuant to her delegated authority, the Under Secretary for Public Diplomacy, United States Department of State, made the necessary determinations to extend the emergency import restrictions with Afghanistan, finding that emergency conditions continue to exist as defined by 19 U.S.C. 2603(a)(3). In accordance with 19 U.S.C. 2603(c)(3), the emergency import restrictions will be unilaterally extended for an additional three-year period.

Accordingly, CBP is amending 19 CFR 12.104g(b) to reflect the extension of the import restrictions, as well as updated language to refer specifically to the material being restricted in a manner consistent with CBP's other listed cultural property restrictions. The restrictions on the importation of categories of archaeological and ethnological material of Afghanistan will continue in effect through April 28, 2029. Importation of such material from Afghanistan continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List of archaeological and ethnological material from Afghanistan covered by these import restrictions is set forth in CBP Dec. 22–04. The Designated List and additional information may also be found at the following website address: *https://www.state.gov/current-agreements-and-import-restrictions* by selecting the material for ''Afghanistan.''

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and

is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Executive Order 12866

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

Signing Authority

In accordance with Treasury Order 100–20, the Secretary of the Treasury has delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with Department of Homeland Security Delegation 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve regulations related to cultural property import restrictions.

Rodney S. Scott, Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, amend the table in paragraph (b) by revising the entry for Afghanistan to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

* * * * *

(b) * * *

State party	Cultural property	Decision No.
*	*	*
Afghanistan	Archaeological material of Afghanistan ranging in date from 50,000 B.C. through A.D. 1747, and ethnological material of Afghanistan ranging in date from the 9th century A.D. through A.D. 1920.	CBP Dec. 22–04, extended by CBP Dec. 26–09.
*	*	*

Robert F. Altneu,

Director, Regulations and Disclosure Law Division, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2026–08223 Filed 4–27–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1301, 1308, and 1312

[AG Order No. 6754–2026]

Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, which constitutes a final order, the Acting Attorney General of the U.S. Department of Justice places drug products containing marijuana that have been approved by the Food and Drug Administration (FDA) in schedule III of the Controlled Substances Act (''CSA''). This action is required to satisfy the responsibility of the Administrator under the CSA to place a drug in the schedule he deems most appropriate to carry out United States obligations under the Single Convention on Narcotic Drugs, 1961. In general, this final rule applies to marijuana as defined in the CSA, marijuana extracts, and delta-9-tetrahydrocannabinol and other compounds derived from the marijuana plant (other than the mature stalks and seeds) that falls outside the definition of hemp, to the extent that any of these are included in an FDA-approved drug product or are subject to

a state-issued license to manufacture, distribute, and/or dispense marijuana or products containing marijuana for medical purposes (''state medical marijuana license''). Also consistent therewith, this final rule adds such drugs to the list of substances that may only be imported or exported pursuant to a permit. This final rule also establishes an expedited registration process under 21 CFR part 1301 for entities holding state medical marijuana licenses, enabling such entities to engage in the manufacture, distribution, and/or dispensing of marijuana for medical purposes under federal law consistent with the requirements of the Single Convention.

DATES: Effective April 28, 2026.

ADDRESSES: 8701 Morrissette Drive, Springfield, Virginia 22152.

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

SUPPLEMENTARY INFORMATION:

Background and Legal Authority

The United States' Treaty Obligations

The United States is a party to the United Nations Single Convention on Narcotic Drugs, Mar. 30, 1961, 18 U.S.T. 1407, 520 U.N.T.S. 151 (''Single Convention''), as amended by the 1972 Protocol. The Single Convention entered into force for the United States on June 24, 1967, after the Senate gave its advice and consent to the United States' accession.[1] The enactment and enforcement of the CSA are the primary means by which the United States carries out its obligations under the Single Convention.[2] Various provisions of the CSA directly reference the Single Convention. One such provision is 21 U.S.C. 811(d)(1), which relates to scheduling of controlled substances.

Under 21 U.S.C. 811(d)(1), if control of a substance is required ''by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970''—which includes the Single Convention—the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by [21 U.S.C. 811(a) or 812(b)] and without regard to the procedures prescribed by [21 U.S.C. 811(a) and (b)].'' [3] This provision is consistent with the Supremacy Clause of the U.S. Constitution, which provides that all treaties made under the authority of the United States ''shall be the supreme Law of the Land.'' [4] In accordance with this constitutional mandate, under section 811(d)(1), Congress directed the Attorney General to ensure that compliance by the United States with our nation's obligations under the Single Convention is given top consideration when it comes to scheduling determinations.[5] Importantly, the Department of Justice's Office of Legal Counsel (OLC) concluded in a 1972 opinion that 21 U.S.C. 811(d)(1) is not limited to those instances where a substance is newly added to an international schedule.[6]

Parties to the Single Convention are required to impose several control measures regarding drugs listed in Schedule I of the Convention.[7] These include the following:

- Limiting exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of such drugs. Article 4.
- Furnishing to the International Narcotics Control Board (INCB) annual estimates of, among other things, quantities of such drugs to be consumed for medical and scientific purposes, utilized for the manufacture of other drugs, and held in stock. Article 19.
- Furnishing to the INCB statistical returns on the actual production, utilization, consumption, imports and exports, seizures, and stocks of such drugs during the prior year. Article 20.
- Requiring that licensed manufacturers of such drugs obtain quotas specifying the amounts of such drugs they may manufacture to prevent excessive production and accumulation beyond that necessary to satisfy legitimate needs. Articles 21 & 29.
- Requiring manufacturers and distributors of such drugs to be licensed. Articles 29 & 30.
- Requiring medical prescriptions for the dispensing of such drugs to patients. Article 30.
- Requiring importers and exporters of such drugs to be licensed and requiring each individual importation or exportation to be predicated on the issuance of a permit. Article 31.
- Prohibiting the possession of such drugs except under legal authority. Article 33.
- Requiring those in the legitimate distribution chain (manufacturers, distributors, scientists, and those who lawfully dispense such drugs) to keep records that show the quantities of such drugs manufactured, distributed, dispensed, acquired, or otherwise disposed of during the prior two years. Article 34.

Because the CSA was enacted in large part to satisfy United States obligations under the Single Convention, many of the CSA's provisions directly implement the foregoing treaty requirements.

Under the Single Convention, cannabis, cannabis resin, and extracts and tinctures of cannabis are listed in Schedule I.[8] The CSA, in implementing

[1] *See* Single Convention, 18 U.S.T. 1407.

[2] *See* S. Rep. No. 91–613, at 4 (1969) (''The United States has international commitments to help control the worldwide drug traffic. To honor those commitments, principally those established by the Single Convention on Narcotic Drugs of 1961, is clearly a Federal responsibility.''); *Office of Legal Counsel, Control of Papaver Bracteatum,* 1 Op. O.L.C. 93, 95 (1977) (''[A] number of the provisions of [the CSA] reflect Congress' intent to comply with the obligations imposed by the Single Convention.'').

[3] *See also* 21 CFR 1308.46.

[4] U.S. Const., art. VI, sec. 2.

[5] The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration. 28 CFR 0.100.

[6] *Petition to Decontrol Marijuana; Interpretation of Section 201 of the Controlled Substances Act of 1970,* Op. O.L.C. at 7–8 (Aug. 21, 1972) (recognizing that the House Report ''clearly shows that a much broader application was intended''). Consistent with this understanding of the CSA and the Single Convention, on September 28, 2018, DEA issued a final rule under 21 U.S.C. 811(d)(1) placing FDA-approved drug products that contain cannabidiol (CBD) derived from the cannabis plant and no more than 0.1 percent tetrahydrocannabinols (THC) into schedule V of the CSA. *See Schedules of Controlled Substances: Placement in Schedule V of Certain FDA-Approved Drugs Containing Cannabidiol; Corresponding Change to Permit Requirements,* 83 FR 48950 (Sept. 28, 2018).

[7] The text of the Single Convention capitalizes schedules (*e.g.,* ''Schedule I''). In contrast, the text of the CSA generally refers to schedules in lower case. This document will follow this approach of using capitalization or lower case depending on whether the schedule is under the Single Convention or the CSA. It should also be noted that the schedules of the Single Convention operate somewhat differently than the schedules of the CSA. Unlike the CSA, the Single Convention imposes additional restrictions on drugs listed in Schedule IV that go beyond those applicable to drugs listed in Schedule I. All drugs in Schedule IV of the Single Convention are also in Schedule I of the Convention. Cannabis and cannabis resin are among the drugs were also listed in Schedule IV of the Single Convention, but the U.N. Commission on Narcotic Drugs removed cannabis from Schedule IV in 2020.

[8] Under the Single Convention, '''[c]annabis plant' means any plant of the genus Cannabis.'' Single Convention art. 1(1)(c). The Single Convention defines ''cannabis'' to mean ''the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.'' *Id.* art. 1(1)(b). This definition of ''cannabis'' under the Single Convention is slightly less inclusive in certain respects than the CSA definition of ''marijuana,'' which includes all parts of the cannabis plant except for the mature stalks, sterilized seeds, oil from the seeds, and certain derivatives thereof. *See* 21 U.S.C. 802(16). Cannabis and cannabis resin are included in the list of drugs

Continued

these requirements, generally defines marijuana to mean ''the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.'' [9] In 2018, Congress amended the CSA to remove ''(i) hemp, as defined in section [1639*o* of title 7 of the U.S. Code]'' from the definition of marijuana.[10] Section 1639*o*(1) of title 7, in turn, defines hemp as ''the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.'' [11] Delta-9-tetrahydrocannabinol (Δ9–THC) is the major psychoactive intoxicating cannabinoid in marijuana. This exclusion of hemp from the definition of marijuana had the effect of removing many products containing predominantly cannabidiol (''CBD'') derived from hemp and containing no more than 0.3 percent Δ9–THC on a dry weight basis from control as marijuana. Effective November 12, 2026, the definition of hemp in 7 U.S.C. 1639*o*(1) is being amended, with corresponding impact on the definition of marijuana in 21 U.S.C. 802(16)(A).

In addition to the requirements for drugs in Schedule I discussed above, the Single Convention requires the United States to take the following additional measures specific to the growing of marijuana plants within the United States:

- Register and regulate growers, including by designating the land upon which they may grow marijuana plants;
- Limit growing of the marijuana plant to that required for legitimate domestic scientific, medical, and industrial needs, and for legitimate exports;
- Establish the upper limit of marijuana that each grower may grow in a calendar year, as well as the total amount of marijuana that can be grown in the United States annually for legitimate needs;
- Purchase all harvested crops of marijuana and monopolize the wholesale trade in harvested marijuana.[12]

Moreover, the CSA also recognizes that the United States is also a party to the Convention on Psychotropic Substances, Feb. 21, 1971, 32 U.S.T. 543, 1019 U.N.T.S. 175 (Convention on Psychotropic Substances).[13] As with the Single Convention, parties to the Convention on Psychotropic Substances are obligated to take various control measures related to the drugs that are covered by the treaty.[14] Congress implemented the additional authority necessary to comply with the Convention on Psychotropic Substances through various amendments to the CSA.[15] Δ9–THC is a substance covered by schedule II of the Convention on Psychotropic Substances, in addition to being covered by Schedule I of the Single Convention if it is extracted from the cannabis plant. This final rule places in schedule III (i) those FDA-approved drug products that contain Δ9–THC falling within the CSA's definition of marijuana, specifically FDA-approved drug products containing Δ9–THC derived from the plant Cannabis sativa L., other than the mature stalks and seeds; and (ii) marijuana subject to a state medical marijuana license.

Existing State Regulatory Systems

Over the last three decades, forty U.S. states have legalized the sale and use of marijuana for medical purposes as a matter of state law and have established systems to regulate that activity. States that have authorized medical marijuana have done so through a licensing regime that restricts cultivation, manufacture, and distribution to entities approved by a designated state agency—typically a department of health, department of agriculture, or a dedicated cannabis regulatory authority. These agencies conduct application review, perform inspections, and maintain ongoing oversight of licensees. State licensees are required to maintain detailed records of plant counts, harvested quantities, inventory levels, and sales or transfers, and to report that information to state regulators on a periodic basis. State medical licensing regimes oversee permissible uses of medical marijuana, confining distribution to registered patients or caregivers through approved dispensaries or other authorized channels. Registered and licensed physicians oversee patient qualification for medical marijuana based on state specific criteria and qualifying conditions.

Authority To Place Certain Marijuana Products in Schedule III

The Administrator has the authority under Section 811(d)(1) of the CSA to move FDA-approved drug products containing marijuana and marijuana subject to state-issued licenses to Schedule III.

Based on a 2024 OLC opinion, if marijuana is listed in schedule III, most of the Single Convention's obligations noted above will continue to be met by CSA statutory authorities and associated regulations.[16] Similarly, the controls available under schedule III are also sufficient to comply with the requirements of the Convention on Psychotropic Substances with respect to Δ9–THC. As discussed in more detail below, this final rule ensures that the United States will continue to meet these obligations without delay or disruption.

As indicated above, Article 31 of the Single Convention obligates parties to require a permit for the importation and exportation of drugs listed in Schedule I of the Convention. This permit requirement applies to drug products containing marijuana because, as further indicated above, such a product is a Schedule I drug under the Single Convention. However, under the CSA [17] and DEA regulations, the import/export permit requirement does not apply to all controlled substances. Rather, a permit is required to import or export any controlled substance in schedule I and II as well as certain controlled substances in schedules III, IV, and V.[18] Thus, in order to control FDA-approved drug products containing marijuana and

in Schedule I of the Single Convention, and cannabis is subject to the same controls as Schedule I drugs as well as additional controls. *See* Single Convention art. 2(6); *id.* art. 28.

[9] 21 U.S.C. 802(16)(A).

[10] Agricultural Improvement Act of 2018, Public Law 115–334, sec. 12619; 132 Stat. 4490, 5018.

[11] As of November 12, 2026, this definition is revised to refer to a ''total a total tetrahydrocannabinols concentration (including tetrahydrocannabinolic acid) of not more than 0.3 percent on a dry weight basis,'' rather than the current reference to the concentration of Δ9–THC. Public Law 119–37, sec. 781.

[12] DEA implemented the requirement to purchase harvested crops of marijuana and to monopolize the wholesale trade in marijuana through regulations pursuant to a 2018 OLC opinion. *See Office of Legal Counsel, Licensing Marijuana Cultivation in Compliance with the Single Convention on Narcotic Drugs,* 42 Op. O.L.C. 1 (June 6, 2018), *https://www.justice.gov/olc/file/1272131/dl?inline* (''2018 OLC Opinion'').

[13] *See also* 21 U.S.C. 801a(2).

[14] *Id.*

[15] *Id.* 801a(2)–(3).

[16] *See Office of Legal Counsel, Memorandum for Merrick B. Garland Attorney General Re: Questions Related to the Potential Rescheduling of Marijuana,* 45 Op. O.L.C., at *33–34 (Apr. 11, 2024).

[17] The provisions of federal law relating to the import and export of controlled substances—those found in 21 U.S.C. 951 through 971—are more precisely referred to as the Controlled Substances Import and Export Act. However, federal courts and DEA often use the term ''CSA'' to refer collectively to all provisions from 21 U.S.C. 801 through 971 and, for ease of exposition, this document will do likewise.

[18] *See* 21 U.S.C. 952 and 953; 21 CFR 1312.11, 1312.12, 1312.21, 1312.22.

marijuana subject to state-issued licenses in schedule III, DEA must simultaneously amend the regulations to require a permit to import or export such products.

It bears emphasis that where, as here, control of a drug is required by the Single Convention, an order under 21 U.S.C. 811(d)(1) must be issued ''*without regard to* the findings required by [21 U.S.C. 811 (a) or 812(b)] and *without regard to* the procedures prescribed by [21 U.S.C. 811 (a) or (b)].'' Thus, in such circumstances, the plain and unambiguous statutory language does not require the Administrator to request a medical and scientific evaluation or scheduling recommendation from the Department of Health and Human Services (HHS), as is normally done pursuant to rulemaking under section 811(b).[19]

Nonetheless, in a letter dated August 29, 2023, HHS provided DEA with a medical and scientific evaluation and scheduling recommendation that marijuana be controlled in schedule III of the CSA.[20] HHS found, *inter alia,* that marijuana has a potential for abuse less than the drugs or other substances in schedules I and II, and that the abuse of marijuana may lead to moderate or low physical dependence or high psychological dependence.[21] These findings would correspond to the criteria for placement of a substance in schedule III.[22] While each of these findings are discussed briefly below, HHS's scientific and medical evaluation entitled, ''Basis for the Recommendation to Reschedule Marijuana Into Schedule III of the Controlled Substances Act,'' is available in its entirety under the ''Supporting and Related Material'' of the public docket for this final rule at *https://www.regulations.gov* under docket number DEA–1362.

First, HHS found that marijuana has a potential for abuse less than the drugs or other substances in schedules I and II. As noted above, marijuana contains Δ9–THC, the substance responsible for the abuse potential of marijuana. Δ9–THC has agonist properties at CB_1 cannabinoid receptors and produces rewarding responses in animals, as evidenced by its ability to produce self-administration and CPP. When marijuana is administered to humans under experimental conditions, it produces a wide range of positive subjective responses in addition to certain negative subjective responses. Common responses to marijuana when it is used by individuals for nonmedical purposes include euphoria and other positive subjective responses, as well as perceptual changes, sedative responses, anxiety responses, psychiatric, social, and cognitive changes, and physiological changes.[23]

HHS noted that epidemiological data from the 2022 National Survey on Drug Use and Health (NSDUH) show that marijuana is the most frequently used federally illicit drug in the United States on a past-year and past-month basis among the illicit comparator drugs considered. Although 50 percent of respondents in NSDUH reported using marijuana nonmedically fewer than 5 days per month, another 30 percent reported using it nonmedically for 20 days or more per month.[24]

Despite the high prevalence of nonmedical use of marijuana, HHS observed that an overall evaluation of epidemiological indicators suggests that it does not produce serious outcomes compared to drugs in schedules I or II. HHS found this especially notable given the availability of marijuana and marijuana-derived products that contain extremely high levels of Δ9–THC. Due to such availability, the epidemiological data described in HHS's evaluation inherently include the outcomes from individuals who use marijuana and marijuana-derived products that have doses of Δ9–THC that range from low to very high, and yet the data demonstrate that these products overall are producing fewer negative outcomes than drugs in schedules I or II.[25]

HHS compared the rank ordering of selected drugs that are abused for various epidemiological measures and observed that marijuana was among the drugs at the very lowest ranking for a number of measures, including poison center (PC) abuse cases, likelihood that any use would lead to a PC call, accidental or unintentional poisoning, utilization-adjusted rates of unintentional exposure, utilization-adjusted and population-adjusted rates for emergency department visits and hospitalizations, likelihood of being diagnosed with a serious substance abuse disorder, deaths reported to PCs, and overdose deaths when used with other drugs or as a single substance (as total numbers and when utilization-adjusted). In contrast, comparators such as heroin (schedule I), oxycodone (schedule II), and cocaine (schedule II) typically were in the highest rank ordering on these measures.[26]

For the various epidemiological measures evaluated above, HHS noted that marijuana was also compared to controlled substances in schedule III (ketamine) and schedule IV (benzodiazepines, zolpidem, and tramadol), as well as to other schedule II substances (fentanyl and hydrocodone). The analyses were conducted in this manner to provide a comprehensive assessment of the relative abuse potential of marijuana. However, the rank order of these substances regarding harms does not consistently align with the relative scheduling placement of these drugs in the CSA due to the pharmacological differences between various classes of drugs.[27]

There are a number of confounding factors that likely influence the adverse outcomes measured in various epidemiological databases and account for the rank ordering of the drugs evaluated on these measures. For example, a different population abuses each substance, and each substance has

[19] In the House Report to the bill that would become the CSA, this issue is explained as follows:

Under subsection [811(d)], where control of a drug or other substance by the United States is required by reason of its obligations under [the Single Convention], the bill does not require that the Attorney General seek an evaluation and recommendation by the Secretary of Health, Education, and Welfare, or pursue the procedures for control prescribed by the bill but he may include the drug or other substance under any of the five schedules of the bill which he considers most appropriate to carry out the obligations of the United States under the international instrument, and he may do so without making the specific findings otherwise required for inclusion of a drug or other substance in that schedule.

H. Rep. No. 91–1444, at 36 (1970). *See also Schedules of Controlled Substances: Placement in Schedule V of Certain FDA-Approved Drugs Containing Cannabidiol; Corresponding Change to Permit Requirements,* 83 FR 48950, 48952 & n.8 (Sept. 28, 2018). Of note, a 1977 D.C. Circuit decision considered not the plain text of the statute, but rather certain aspects of the legislative history, to conclude that 21 U.S.C. 811(d)(1) still requires DEA to request a scientific and medical evaluation and scheduling recommendation from HHS in certain circumstances, such as when a substance can be placed in more than one schedule under the CSA and still satisfy obligations under the Single Convention. *Nat'l Org. for Reform of Marijuana Laws (NORML)* v. *Drug Enforcement Admin.,* 559 F.2d 735, 746–47 (D.C. Cir. 1977) (stating that the ''language of Section 201(d) is consistent with the clear import of the Act's legislative history,'' including certain floor debates and comments by various congressmen, and ''must be read against this backdrop of intense concern with establishing and preserving [HHS's] avenue of input into scheduling decisions''). Because HHS has provided DEA with a medical and scientific evaluation and scheduling recommendation for marijuana, DEA has met this additional procedural requirement.

[20] *See* Letter for Anne Milgram, Administrator, DEA, from Rachel L. Levine, M.D., Assistant Secretary for Health, HHS (Aug. 29, 2023) (''August 2023 Letter''); *see also* Memorandum for DEA, from HHS, *Re:* Basis for the Recommendation to Reschedule Marijuana to Schedule III of the Controlled Substances Act (''HHS Basis for Rec.'').

[21] HHS Basis for Rec. at 62–65.

[22] *See* 21 U.S.C. 812(b)(3).

[23] HHS Basis for Rec. at 62.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.* at 63.

a different prevalence of abuse and a different profile of severe adverse outcomes in a setting of nonmedical use and abuse. Thus, it is challenging to reconcile the ranking of relative harms associated with the comparators used in this evaluation when the rankings differ across various epidemiological databases and when these rankings often do not align with the scheduling placement of these comparators under the CSA.[28]

To address these challenges, HHS evaluated the totality of the available data and concluded that it supports the placement of marijuana in schedule III. Overall, these data demonstrate that, according to HHS, although marijuana is associated with a high prevalence of abuse, the profile of and propensity for serious outcomes related to that abuse lead to a conclusion that marijuana is most appropriately controlled in schedule III under the CSA.[29]

Second, HHS found that abuse of marijuana may lead to moderate or low physical dependence or high psychological dependence.[30] Regarding physical dependence, as evidenced by its associated withdrawal symptomology upon abrupt discontinuation of use, the most commonly reported marijuana withdrawal symptoms in clinical investigations are sleep difficulties, decreased appetite and weight loss, craving, irritability, anger, anxiety or nervousness, and restlessness. Marijuana withdrawal symptoms typically peak within two to six days and decline over one to two weeks as Δ9–THC is eliminated. Similarly, the drug labels for the FDA-approved drug products Marinol and Syndros state that, following chronic administration of dronabinol, drug discontinuation leads to irritability, insomnia, and restlessness at 12 hours, and by 24 hours the withdrawal symptoms can include hot flashes, sweating, rhinorrhea, diarrhea, and anorexia.[31]

HHS observed that marijuana withdrawal syndrome has been reported in individuals with heavy, chronic marijuana use, but its occurrence in occasional users of marijuana has not been established. Marijuana withdrawal syndrome appears to be relatively mild compared to the withdrawal syndrome associated with alcohol, which can include more serious symptoms such as agitation, paranoia, seizures and even death. Multiple studies comparing the withdrawal symptoms associated with marijuana and tobacco demonstrate that the magnitude and time course of the two withdrawal syndromes are similar.[32]

Based on the evidence, HHS determined that the abuse of marijuana may lead to moderate or low physical dependence, depending on frequency and degree of marijuana exposure. HHS further concluded that marijuana can produce psychic dependence in some individuals, but that the likelihood of serious outcomes is low, suggesting that high psychological dependence does not occur in most individuals who use marijuana.[33]

Although I am not required to consider this HHS recommendation when issuing an order under section 811(d)(1), because I believe there are several legally viable scheduling options that would satisfy the United States' obligations under the Single Convention based on OLC's 2024 opinion discussed above, I exercise my discretion in determining the most appropriate schedule by choosing the option that most closely aligns to HHS's findings and best positions the United States to carry out its obligations under the Single Convention with regard to marijuana crops and other marijuana that has not yet been manufactured into an FDA-approved product or subject to a state medical marijuana license. Namely, I am hereby ordering that FDA-approved drug products containing marijuana, as well marijuana in any form covered by a state medical marijuana license, be placed in schedule III of the CSA.[34]

Additionally, maintaining unlicensed bulk marijuana in schedule I allows the United States to continue to meet two of its obligations under the Single Convention without disruption. First, as indicated above, for drugs listed in Schedule I of the Single Convention, parties are obligated to require that licensed manufacturers of such drugs obtain quotas specifying the amounts of such drugs they may manufacture. The purpose of this treaty requirement is to prevent excessive production and accumulation beyond that necessary to satisfy legitimate needs. Under this scheduling order, the United States will continue to meet this obligation without disruption or delay because unlicensed bulk marijuana, marijuana extract, and Δ9–THC material used to make FDA-approved drug products will remain in schedule I of the CSA and thus be subject to all applicable quota provisions under 21 U.S.C. 826; and because state-licensed marijuana will be required to meet the quota requirements of the Single Convention.

Second, as also discussed above, pursuant to a 2018 OLC opinion, DEA must buy marijuana crops from registered manufacturers, be the seller of that marijuana to any eligible registered purchaser, and establish prices for such purchase and sale.[35] Marijuana growers must pay DEA an administrative fee for such transactions.[36] These actions are necessary for the United States to meet its obligations under articles 23 and 28 of the Single Convention.[37] By maintaining in schedule I all unlicensed marijuana crops, bulk marijuana, and any marijuana or marijuana extract that has not yet been incorporated into a FDA-approved drug product, and by requiring that state-licensed marijuana satisfy the requirements relating to the purchase and sale of marijuana by DEA, the United States will continue to meet these obligations without disruption or delay.

Placing only FDA-approved products containing marijuana and state-licensed marijuana in schedule III also is consistent with articles 23 and 28 of the Single Convention and 21 CFR 1318.04(b), which specify that the requirement to monopolize the wholesale trade in marijuana does not extend to ''medicinal cannabis.'' Medicinal cannabis is defined in 21 CFR 1318.02(b) to mean ''a drug product made from the cannabis plant, or derivatives thereof, that can be legally marketed under the Federal Food, Drug, and Cosmetic Act [(FD&C Act)].'' The final rule exempts marijuana subject to state medical marijuana licenses from the requirement to monopolize the wholesale trade in marijuana.

This final rule rescheduling marijuana contained in FDA-approved products or subject to a state medical marijuana license applies to marijuana as listed in 21 CFR 1308.11(d)(23), as well as marijuana extracts as defined in 21 CFR 1308.11(d)(58) because they meet the statutory definition of marijuana and, prior to 2017, were included in 21 CFR 1308.11(d)(23).[38] In addition, this final

[28] *Id.*

[29] *Id.*

[30] *Id.* at 65.

[31] *Id.* at 64.

[32] *Id.*

[33] *Id.* at 65.

[34] Article 5 of the Single Convention requires parties to take legislative and administrative measures ''to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of'' the substances covered by the treaty. In this order, DEA is carrying out this obligation by limiting the rescheduling to FDA-approved drug products and marijuana covered by licenses issued under state-medical-marijuana regulatory regimes.

[35] *See 2018 OLC Opinion, supra n.12. See also* 21 CFR 1318.06(b).

[36] 21 CFR 1318.06.

[37] *2018 OLC Opinion, supra n.12. See also* Single Convention arts. 23, 28.

[38] *See Establishment of a New Drug Code for Marijuana Extract,* 81 FR 90194 (Dec. 14, 2016).

rule applies to Δ9–THC derived from the marijuana plant (other than the mature stalks and seeds) that falls outside the definition of hemp, because it meets the statutory definition of marijuana.

This final rule does not apply to synthetically derived THC, which is outside the CSA's definition of marijuana. Tetrahydrocannabinols that can be derived only through a process of artificial synthesis (*e.g.,* delta-10-tetrahydrocannabinol) are excluded. HHS provided a scientific and medical evaluation only relating to ''marijuana'' as defined in the CSA. That definition is limited to the plant (other than the mature stalks and seeds) and derivatives of the plant. Therefore, synthetic THC remains in schedule I.

This final rule also does not affect the status of hemp (as defined in 7 U.S.C. 1639*o*), because hemp is excluded from the definition of marijuana. This final rule is not rescheduling any drug product containing marijuana or THC that previously has been rescheduled out of schedule I (*e.g.,* Marinol and Syndros). Nor does it impact the status of any previously scheduled synthetic cannabinoids.

As noted, this order placing FDA-approved drug products containing marijuana and state-licensed medical marijuana in schedule III will only comport with 21 U.S.C. 811(d)(1) if all importations and exportations of products containing marijuana remain subject to the permit requirement. Until now, since all marijuana has been a schedule I controlled substance, any importation has been subject to the permit requirement. To ensure this requirement remains in place (and thus to prevent any lapse in compliance with the requirements of the Single Convention), this order amends the DEA regulations (21 CFR 1312.30) to add FDA-approved drug products containing marijuana and state-licensed medical marijuana to the list of nonnarcotic schedule III through V controlled substances that are subject to the import and export permit requirement.[39]

Tax Implications

The Acting Attorney General further notes that, as a consequence of this rule, state licensees will no longer be subject to the deduction disallowance imposed by Section 280E of the Internal Revenue Code, which applies only to businesses engaged in ''trafficking in controlled substances . . . in a schedule I or II,'' 26 U.S.C. 280E. Nothing in this rule constitutes a determination regarding federal tax liability, and qualifying state licensees should consult with tax counsel regarding the applicability of Section 280E to their specific circumstances.

Requirements for Handling FDA-Approved Drug Products Containing Marijuana

Preliminarily, it should be noted that any form of marijuana other than in an FDA-approved drug product or marijuana subject to a state medical marijuana license remains a schedule I controlled substance, and those who handle such material remain subject to the regulatory controls, and administrative, civil, and criminal sanctions, applicable to schedule I controlled substances set forth in the CSA and DEA regulations.

However, for those who handle marijuana exclusively in the form of an FDA-approved drug product, the following is a summary of the schedule III regulatory requirements that will apply upon the effective date of this final rule:

1. *Registration.* Any person who handles (*e.g.,* manufactures, distributes, dispenses, imports, exports, engages in research, reverse distributes, or conducts instructional activities or chemical analysis with) FDA-approved drug products containing marijuana must be registered with DEA to conduct such activities.[40] That is, persons and entities wishing to distribute or dispense (including prescribe) marijuana in an FDA-approved product must first obtain a DEA registration applicable to schedule III controlled substances. Entities that transfer marijuana to patients, including dispensaries, must register with DEA as ''practitioners'' under 21 U.S.C. 823(g). Registration under that provision does not allow the practitioner to possess or dispense (including prescribe) schedule I controlled substances, including marijuana and marijuana extracts that are in a form other than an FDA-approved drug product or marijuana subject to a state medical marijuana license.

2. *Disposal of stocks.* Schedule III FDA-approved drug products containing marijuana must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

3. *Fees.* Each applicant for registration, other than those employed by state or Federal governments, must pay a registration fee. Current fees are: (1) Manufacturers: $3,699 annually; (2) Distributors: $1,850 annually; and (3) Dispensers, including pharmacies: $888 for a registration valid for 3 years.

4. *Prescriptions.* Prescriptions for FDA-approved drug products containing marijuana are required prior to dispensing, except when dispensed directly by a DEA-registered practitioner, such as a physician, dentist, veterinarian, or hospital.[41] Prescriptions must be ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice.'' [42] Prescriptions must include ''the drug name, strength, dosage form, quantity prescribed, directions for use,'' among other items.[43] Under DEA's regulations, both the prescribing practitioner and the pharmacist who fills the prescription have responsibility for the proper prescribing and/or dispensing of controlled substances.[44]

5. *Records and Reports.* All DEA registrants must maintain records and submit reports with respect to FDA-approved drug products containing marijuana.[45]

6. *Security.* All DEA registrants must comply with regulatory security requirements.[46]

7. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of FDA-approved drug products containing marijuana must meet all applicable schedule III labeling and packaging requirements.[47]

8. *Inventory.* Any person registered with DEA to handle FDA-approved drug products containing marijuana must make an initial inventory of all stocks of controlled substances (including these substances) on hand on the date the registrant first engages in the handling of controlled substances. After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including

[39] It is DEA's intention that the provisions of this final rule shall operate independently of each other. If this final rule, or any portion of this final rule, is ultimately declared invalid or stayed as to a particular provision, it is DEA's intent that the final rule nonetheless be severable and remain valid with respect to those provisions not affected by a declaration of invalidity or stayed. DEA concludes it would separately adopt all of the provisions contained in this final rule.

[40] 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301, 1312, and 1318.

[41] 21 U.S.C. 829(a), (b); 21 CFR 290.1. *See also* Single Convention, art. 30. Dispensing generally refers to the lawful delivery of marijuana by a DEA registrant to an ultimate user. *See* 21 U.S.C. 802(10).

[42] 21 CFR 1306.04(a).

[43] 21 CFR 1306.05(a).

[44] *Id.* 1306.04(a).

[45] 21 U.S.C. 827 and 832(a); 21 CFR 1301.74(b) and (c), and parts 1304, 1312, and 1317.

[46] 21 U.S.C. 821, 823; 21 CFR 1301.71–1301.76; 1301.90–1301.93.

[47] 21 U.S.C. 825 and 958(e); 21 CFR part 1302.

FDA-approved drug products containing marijuana) on hand every two years.[48]

9. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule III controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of FDA-approved products containing marijuana may only be for the legitimate purposes authorized by the FD&C Act and the CSA.

10. *Liability.* Any activity involving FDA-approved drug products containing marijuana not authorized by, or in violation of the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions

Registration of State Licensees

State medical marijuana regulatory systems have matured significantly since California first authorized medical use in 1996, and today the vast majority of States maintain comprehensive licensing frameworks governing cultivation, processing, distribution, and dispensing of marijuana for medical purposes. These state regimes have developed robust infrastructure for preventing diversion, ensuring product safety, maintaining records, and conducting facility inspections—functions that fulfill the objectives of federal registration and recordkeeping requirements. The Attorney General has reviewed the operation of these state systems and finds that, taken as a whole, they demonstrate a sustained capacity to achieve the public-interest objectives that underlie the CSA's registration framework, including protecting public health and safety and preventing the diversion of controlled substances into illicit channels.

In light of that record, the Attorney General has determined that incorporating state licensing systems into the federal registration framework represents the most effective and efficient means of achieving the CSA's objectives with respect to medical marijuana while promoting the medical benefits of marijuana and causing the least disruption for patients and existing state systems. The rule accordingly leverages existing regulatory infrastructure while preserving the Administrator's authority to deny or revoke registration where specific public-interest concerns arise and to ensure compliance with the Single Convention. This approach reflects the Attorney General's considered judgment that cooperative federalism best serves the statutory purposes of the CSA in the context of a well-regulated medical marijuana market.

The proposed amendments to part 1301 establish a new registration pathway for state-licensed medical marijuana entities seeking federal DEA registration as manufacturers, distributors, and/or dispensers. The regulation creates an expedited review process under which applicants holding state medical marijuana licenses may submit their existing state credentials as conclusive evidence of state-law authorization. The Administrator must grant registration unless doing so would be inconsistent with the public interest under the 21 U.S.C. 823 factors or with the requirements of the Single Convention. A DEA registration automatically suspends upon suspension, revocation, or expiration of the underlying state-issued license, ensuring that federal authorization tracks state authorization. To facilitate a prompt transition, the Administrator is directed to process applications submitted within 60 days of publication within six months, and early applicants may lawfully operate under their state-issued licenses during the pendency of review.

The rule contains several provisions designed to reduce regulatory burden on compliant state-licensed entities. Reporting, recordkeeping, and order-form requirements are limited to what is strictly necessary to satisfy federal statutory and treaty obligations, with state-required records accepted to the maximum extent permissible. State-authorized medical marijuana certifications or similar documents are sufficient to permit the dispensing of medical marijuana to users, provided they include the user's name and address, are dated and signed on the day of issuance, and identify the issuing practitioner. Similarly, registrants may rely on state-law labeling, packaging, disposal, and physical-security requirements in lieu of the otherwise-applicable federal requirements, subject to inclusion of the statutory warning label required by 21 U.S.C. 825(c).

To address Single Convention compliance under Article 23, the rule establishes a nominal-price purchase-and-resale mechanism through which the Administration acquires and resells registered manufacturers' marijuana crops, thereby satisfying the Convention's requirement that a government agency serve as the exclusive purchaser of cannabis production. Registered manufacturers must store crops in a facility to which DEA maintains access until that transaction is complete, and each manufacturer registration must specify the areas in which cultivation is permitted. The Administrator is also authorized to require record-keeping and reporting necessary to comply with the Single Convention, and the Administrator must take into account the requirements of the Single Convention, including any quota requirements, in evaluating applications.

Out of an abundance of caution, the Administrator clarifies that researchers who obtain marijuana or marijuana-derived products from a state licensee for use in scientific research shall incur no civil or criminal liability under the Controlled Substances Act solely by reason of having obtained such products from a state-licensed source rather than a separately DEA-registered bulk manufacturer, provided that the researcher is registered with the Administration to conduct research with marijuana under 21 CFR. 1301.13 and the state licensee from whom the researcher obtained the marijuana held a valid federal registration at the time of the transfer. The Administrator shall not treat the use of state-licensed marijuana products in federally registered research as a basis for adverse action against a researcher's registration.

The Administrator further notes that, as a consequence of this rule, holders of state medical marijuana licenses will no longer be subject to the deduction disallowance imposed by Section 280E of the Internal Revenue Code, which applies only to businesses engaged in ''trafficking in controlled substances . . . in a schedule I or II,'' 26 U.S.C. 280E. The Administrator encourages the Secretary of the Treasury to consider providing retrospective relief from Section 280E liability for taxable years in which a state licensee operated under a state medical marijuana license. Nothing in this rule constitutes a determination regarding federal tax liability, and state licensees should consult with tax counsel regarding the applicability of Section 280E to their specific circumstances.

Regulatory Analyses

Administrative Procedure Act

The CSA provides for an expedited scheduling action where control is required by the United States' obligations under international treaties, conventions, or protocols.[49] If control is required pursuant to such international

[48] 21 U.S.C. 827 and 958(e); 21 CFR 1304.03, 1304.04, and 1304.11.

[49] 21 U.S.C. 811(d)(1).

treaty, convention, or protocol, the Attorney General, as delegated to the Administrator, must issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, and ''without regard to'' the findings and rulemaking procedures otherwise required for scheduling actions in 21 U.S.C. 811(a) and (b).[50]

In accordance with 21 U.S.C. 811(d)(1), scheduling actions for drugs that are required to be controlled by the United States' obligations under international treaties, conventions, or protocols in effect on October 27, 1970, shall be issued by order, as opposed to scheduling by rule pursuant to 21 U.S.C. 811(a). Therefore, DEA believes that the notice-and-comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this scheduling action.

Executive Orders 12866, 13563, 14192, and 14294

This action is not a significant regulatory action as defined by Executive Order (E.O.) 12866, Regulatory Planning and Review, and the principles reaffirmed in E.O. 13563, Improving Regulation and Regulatory Review. DEA scheduling actions are not subject to E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

While this scheduling action is exempt from review under E.O. 12866, DEA recognizes this action may have unique economic impacts. Marijuana is subject to a number of State laws that have allowed a multibillion-dollar industry to develop. DEA acknowledges that there may be large impacts related to Federal taxes and research and development investment for the pharmaceutical industry, among other things.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

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

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[51] applies to rules that are subject to notice and comment under the APA or any other law. As explained above, this final rule is not subject to the notice-and-comment procedures of the APA. Consequently, the RFA does not apply to this action.

Paperwork Reduction Act of 1995

This action does not impose a new or revised ''collection[s] of information'' as defined by the Paperwork Reduction Act of 1995.[52]

Unfunded Mandates Reform Act of 1995

DEA has determined pursuant to the Unfunded Mandates Reform Act (UMRA) of 1995[53] that this final rule would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year . . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This order is not a major rule as defined by the Congressional Review Act (CRA).[54] However, DEA is submitting reports under the CRA to both Houses of Congress and to the Comptroller General.

List of Subjects

21 CFR Part 1300

Definitions, Drug traffic control.

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Registration requirements.

21 CFR Part 1308

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

21 CFR Part 1312

Administrative practice and procedure, Drug traffic control, Exports, Imports, Reporting requirement.

For the reasons set out above, DEA amends 21 CFR parts 1300, 1301, 1308, and 1312 as follows:

PART 1300—DEFINITIONS

■ 1. The authority citation for part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 821, 822, 829, 871(b), 951, 958(f).

■ 2. Amend § 1300.01 by adding the definitions of ''Marijuana''and ''State medical marijuana license'' in alphabetical order to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

Marijuana shall have the meaning set forth at 21 U.S.C. 802(16)(A).

* * * * *

State medical marijuana license means a license issued by a state entity (or by a District of Columbia entity or a federal territorial entity) authorizing the licensee to manufacture, distribute, and/or dispense marijuana or products that contain marijuana for medical purposes.

* * * * *

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 3. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 956, 957, 958, 965.

■ 4. Amend § 1301.13 by adding paragraph (k) to read as follows.

§ 1301.13 Application for registration; time for application; expiration date; registration for independent activities; application forms, fees, contents and signature; coincident activities.

* * * * *

(k) *Medical marijuana registrations.* The Administration shall establish an expedited review process for entities holding state medical marijuana licenses who seek registration as a marijuana manufacturer, distributor, or dispenser. Such applicants shall submit, along with the applicable DEA form or forms, proof of a state medical

[50] *Id.*

[51] 5 U.S.C. 601 *et seq.*

[52] 44 U.S.C. 3502(3).

[53] 2 U.S.C. 1501 *et seq.*

[54] 5 U.S.C. 804.

marijuana license in the form specified by the Administrator. The Administrator shall register an applicant under this subsection unless the Administrator determines that the issuance of such registration is inconsistent with the public interest, taking into account the factors set forth at 21 U.S.C. 823(e) through (g), as applicable, and the requirements of the Single Convention on Narcotic Drugs, including any quota requirement. In general, registration of an applicant that complies with a state-law regime that contains robust protections against diversion, requirements for record-keeping and reporting, and safety and inspection measures will not be inconsistent with the public interest so long as registration is consistent with the Single Convention.

(1) *Types of registrations.* (i) A registered marijuana manufacturer may cultivate, produce, process, package, label, and transfer marijuana and products containing marijuana to registered distributors or other registered manufacturers, subject to the limitations of its state license.

(ii) A registered distributor may receive marijuana and products containing marijuana from registered manufacturers and transfer marijuana and products containing marijuana to registered dispensers or other registered distributors, subject to the limitations of its state license.

(iii) A registered dispenser may dispense marijuana and products containing marijuana to individuals authorized by state law to possess marijuana and products containing marijuana for medical purposes, subject to the limitations of its state license.

(iv) Registrations under this subpart do not authorize the manufacture, distribution, dispensing, or use of marijuana or products containing marijuana for non-medical purposes.

(v) A single entity may be granted multiple types of registrations.

(2) *State licenses as evidence of State authorization.* For purposes of 21 U.S.C. 823(e) through (g), and for any other purpose, a state license shall constitute conclusive evidence that the applicant is authorized under state law to engage in the activity for which registration is sought.

(3) *Suspension, revocation, or expiration of State license.* A registration issued under this section shall not exceed the scope of the holder's state medical marijuana license. If the state medical marijuana license is suspended, revoked, or expires, the DEA registration is automatically suspended.

(4) *Reports, records, and order forms.* Notwithstanding any other provision of this part, the Administrator shall require registrants under this subsection to submit only such reports and records, and to use only such order forms, as the Administrator concludes are necessary to comply with federal statutory and treaty obligations. The Administrator shall accept state-required reports, records, and forms to the maximum extent permissible.

(5) *Prescriptions.* Notwithstanding part 1306 of this chapter or any other provision of these rules, a certification or other document (including an electronic document) that state law deems sufficient for a user to obtain marijuana or products containing marijuana for medical purposes shall be sufficient to permit dispensing of marijuana or products containing marijuana to a user so long as the certification or other document is dated as of, and signed on, the day when issued; bears the full name and address of the user; and contains the name, address, and state license number of the practitioner who signed the certification or other document and is authorized to do so under state law.

(6) *Compliance with Article 23 of the Single Convention on Narcotic Drugs.* Part 1318 of this chapter shall not apply to entities holding valid licenses under this paragraph (k)(6).

(i) All manufacturers registered under this subsection shall establish a nominal price for the purchase of their marijuana crops. The Administration shall then purchase the entity's crops at that price and sell the crops back to the entity, or a related or subsidiary entity, at the same price with the addition of the administrative fee as calculated under § 1318.06(a) of this chapter.

(ii) All registered manufacturers shall store marijuana crops in a facility to which the Administration maintains access until the transaction set forth in paragraph (k)(6)(i) of this section is complete. The Administration shall have the right to inspect such facilities on demand.

(iii) A registration for a manufacturer under this subsection shall specify the areas in which marijuana cultivation is permitted.

(7) *Expedition.* The Administrator shall make every effort to process all applications submitted within 60 days of the publication of this regulation in the **Federal Register** within six months. Notwithstanding paragraph (a) of this section, any applicant that submits an application within 60 days of the publication of this rule in the **Federal Register** may engage in the manufacture, distribution, and/or dispensing of marijuana or products containing marijuana for medical purposes in conformity with a state-issued license during the pendency of the application.

(8) *Labeling, packaging, and sealing.* A registrant under this subsection is exempt from the labeling, packaging, and sealing requirements under part 1302 of this chapter, and other provisions of these rules so long as they label, package, and seal marijuana and products containing marijuana in conformity with state law and so long as the label includes the warning required by 21 U.S.C. 825(c), where applicable.

(9) *Disposal.* Notwithstanding part 1317 of this chapter. or any other provision of these rules, a registrant under this paragraph may dispose of marijuana and products containing marijuana in conformity with state law.

(10) *Security Requirements.* Notwithstanding any other provision of these rules, a registrant under this paragraph has sufficient physical-security requirements if the registrant meets the requirements of state law.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 5. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 6. Amend § 1308.13 by adding new paragraphs (g)(2) through (5) to read as follows.

§ 1308.13 Schedule III.

* * * * *

(g) * * *

* * * * * * *

(2) Marijuana, as defined in 21 U.S.C. 802(16), in a U.S. Food and Drug Administration approved product or subject to a state medical marijuana license	XXXX
(3) Marijuana extract, as defined in 21 CFR 1308.11(d)(58), in a U.S. Food and Drug Administration approved product or subject to a state medical marijuana license	XXXX
(4) Naturally derived delta-9-tetrahydrocannabinols in a U.S. Food and Drug Administration approved product or in marijuana subject to a state medical marijuana license	XXXX

(i) Naturally derived delta-9-tetrahydrocannabinols means those delta-9-tetrahydrocannabinols, except as in paragraphs (g)(2) and (3) of this section, that are naturally contained in a plant of the genus Cannabis (cannabis plant)..
(ii) Naturally derived delta-9-tetrahydrocannabinols do not include any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. 1639*o*..
(iii) Naturally derived delta-9-tetrahydrocannabinols do not include any delta-9-tetrahydrocannabinols contained in substances excluded from the definition of marijuana as set forth in 21 U.S.C. 802(16)(B)(ii)..
(5) [Reserved] XXXX

* * * * * * *

* * * * *

PART 1312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

■ 7. The authority citation for part 1312 continues to read as follows:

Authority: 21 U.S.C. 821, 871(b), 952, 953, 954, 957, 958.

■ 8. Amend § 1312.30 by:

■ a. Redesignating paragraph (b) as paragraph (e); and

■ b. Adding new paragraphs (b), (c), and (d).

The additions to read as follows:

§ 1312.30 Schedule III, IV, and V non-narcotic controlled substances requiring an import and export permit.

* * * * *

(b) Marijuana, as defined in 21 U.S.C. 802(16), in a U.S. Food and Drug Administration approved product or subject to a state medical marijuana license.

(c) Marijuana extract, as defined in 21 CFR 1308.11(d)(58), in a U.S. Food and Drug Administration approved product or subject to a state medical marijuana license.

(d) Naturally derived delta-9-tetrahydrocannabinols in a U.S. Food and Drug Administration approved product or subject to a state medical marijuana license.

(1) Naturally derived delta-9-tetrahydrocannabinols means those delta-9-tetrahydrocannabinols, except as in paragraphs (g)(2) and (3) of this section, that are naturally contained in a plant of the genus Cannabis (cannabis plant).

(2) Naturally derived delta-9-tetrahydrocannabinols do not include any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. 1639*o*.

(3) Naturally derived delta-9-tetrahydrocannabinols do not include any delta-9-tetrahydrocannabinols contained in substances excluded from the definition of marijuana as set forth in 21 U.S.C. 802(16)(B)(ii).

* * * * *

Dated: April 22, 2026.

Todd Blanche,

Acting Attorney General.

[FR Doc. 2026–08176 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1917

[Docket No. OSHA–2025–0007]

RIN 1218–AD51

Open Fires in Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA is finalizing the revocation of the agency's Open Fires in Marine Terminals Standard.

DATES: The final rule is effective April 28, 2026.

ADDRESSES: *Docket:* The docket for this rulemaking (Docket No. OSHA–2025–0007) is available at *https://www.regulations.gov,* the Federal eRulemaking Portal. Most exhibits are available at *https://www.regulations.gov;* some exhibits (*e.g.,* copyrighted material) are not available to download from that web page. However, all materials in the dockets are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2500 (TDY number 877–889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Contact Frank Meilinger, Director, OSHA Office of Communications, Occupational Safety and Health Administration; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

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Copies of this ***Federal Register*** *notice:* Electronic copies are available at *https://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's web page at *https://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

This final rule revokes the Open Fires in Marine Terminals Standard, 29 CFR 1917.21 (''Open Fires Standard''). OSHA has determined that this standard is no longer necessary to protect employees working in marine terminals from occupational safety and health hazards. This is a deregulatory action per Executive Order 14192, ''Unleashing Prosperity Through Deregulation'' (90 FR 9065 (Feb. 6, 2025)).

II. Legal Authority

The purpose of the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) (''the Act'' or ''the OSH Act'') is ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources'' (29 U.S.C. 651(b)). To achieve this goal Congress authorized the Secretary of Labor (''the Secretary'') to promulgate standards to protect workers, including the authority ''to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce'' (29 U.S.C. 651(b)(3); see also 29 U.S.C. 654(a)(2) (requiring employers to comply with OSHA standards), 29 U.S.C. 655(a) (authorizing summary adoption of existing consensus and established federal standards within two years of the Act's enactment), and 29 U.S.C. 655(b) (authorizing promulgation, modification or revocation of standards pursuant to notice and comment)). An occupational safety and health standard is ''. . . a standard which requires conditions, or

the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment'' (29 U.S.C. 652(8)).

Before OSHA may promulgate a health or safety standard, it must find that a standard is reasonably necessary or appropriate within the meaning of section 652(8) of the OSH Act. As required by the OSH Act, OSHA originally determined that the Standards for Marine Terminals would substantially reduce a significant risk of material harm when promulgating those standards (see 48 FR 30886, 30887 (July 5, 1983)). Once OSHA makes a general significant risk finding in support of a standard, the next question is whether a particular requirement is reasonably related to the purpose of the standard as a whole. See *Asbestos Info. Ass'n/N. Am.* v. *Reich,* 117 F.3d 891, 894 (5th Cir. 1997); *Forging Indus. Ass'n* v. *Sec'y of Labor,* 773 F.2d 1436, 1447 (4th Cir. 1985); *United Steelworkers of Am., AFL–CIO–CLC* v. *Marshall,* 647 F.2d 1189, 1237–38 (D.C. Cir. 1980) (''*Lead I*'').[1]

The Administrative Procedure Act (APA) directs agencies to include in each rule adopted ''a concise general statement of [the rule's] basis and purpose'' (5 U.S.C. 553(c); *cf.* 29 U.S.C. 655(e) (requiring the Secretary to publish a ''statement of reasons'' for any standard promulgated)). This notice satisfies this concise statement requirement.

The effective date of this final rule is its date of publication. It is exempt from the APA's requirement for delay in effective date because the rule relieves a restriction (5 U.S.C. 553(d)(1)).

III. Background

OSHA first adopted the Open Fires Standard in 1983, as part of its Marine Terminals rulemaking, to address serious occupational safety and health hazards in the marine terminals industry (see 48 FR 30886 (July 5, 1983)). The Open Fires Standard prohibits open fires and fires in drums and similar containers (29 CFR 1917.21). The standard is one of several intended to protect employees working in marine terminals from the occupational safety and health hazards to which they are exposed (*see* 29 CFR Pt. 1917). For example, in addition to containing the Open Fires Standard, the Marine Terminals Standards contain standards protecting employees from slippery conditions (29 CFR 1917.12) and hazardous cargo (29 CFR 1917.22). The Marine Terminals Standards apply to work such as loading, unloading, movement or other handling of cargo in marine terminals (29 CFR 1917.1). Marine terminals are wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas dedicated to the maintenance of the terminal or equipment.

IV. Explanation of the Revocation of the Open Fires in Marine Terminals Standard

OSHA proposed removing the Open Fires Standard from the CFR because that standard is no longer necessary to protect employees working in marine terminals from occupational safety and health hazards. When OSHA first promulgated the Marine Terminals Standards in 1983, affected employees made open fires in drums or similar containers to stay warm when they were exposed to the elements. In the Notice of Proposed Rulemaking for this rule, OSHA stated the agency's understanding that this is no longer a typical practice and the agency belief that the practice is not likely to become prevalent again in the absence of OSHA's prohibition. As OSHA stated, because of containerization and technology improvements in the marine terminals industry, employees today are not exposed to the elements as they once were, and to the extent employees are still exposed to the elements, they can wear heated jackets, which were not available when the Open Fires Standard was issued. OSHA also has no records of any citations for a violation of this standard (OSHA's accessible records extend back to 2012, and OSHA did not receive any public comment or evidence suggesting earlier citations). Therefore, consistent with Executive Order (E.O.) 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' and the goal of significantly reducing the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life for each citizen, OSHA preliminarily found that removing the Open Fires Standard from the CFR would reduce the compliance burden on the regulated community without compromising worker safety.

OSHA received two comments in response to the proposal. Both opposed the revocation of the standard on the grounds that open fires could remain a hazard if employees are exposed, but neither provided evidence to suggest that these fires still occur (other than via vandalism) or that employees would be exposed to any such fires. The Occupational Safety and Health State Plan Association (''OSHSPA'') (OSHA–2025–0007–0004) stated that while open fires ''may not be typical practice, they are still in use,'' but did not provide any other explanation. A different commenter (OSHA–2025–0007–0003) agreed with OSHA that employees today are not exposed to the elements as they once were because of containerization and technology improvements. The commenter also agreed that, to the extent employees are still exposed to the elements, they can wear heated jackets, which are now ''widely available and affordable'' and ''provide a safer and more effective way to manage cold stress for workers with outdoor exposure, eliminating the hazards of open flames.'' In response to a question posed by OSHA in the NPRM, the commenter posited, without providing any supporting evidence, that employees might still want to make open fires for other reasons, including improper waste disposal, vandalism, cooking food, and if heated jackets malfunction. The commenter also emphasized the risks associated with open fires, including the risk of uncontrolled flames in areas potentially containing flammable materials, smoke inhalation, and toxic fumes. On the other hand, the commenter also acknowledged that ''general fire prevention rules'' would address fire hazards.

OSHA concludes that there is no persuasive evidence in the record that these fires still occur. If open fires were occurring, they would be in violation of the existing standard. Yet while work in marine terminals has continued for over four decades under this standard, OSHA has no record of any citation for violation of the Open Fires Standard (OSHA's accessible records extend back to 2012, and OSHA did not receive any public comment or evidence suggesting earlier citations). The record lacks any evidence that, for example, employees at modern marine terminals are likely to resort to open flames to cook food or to dispose of trash. Moreover, the

[1] OSHA standards must also be both technologically and economically feasible. *Lead I,* 647 F.2d at 1264 (D.C. Cir. 1980). Because this final rule eliminates an existing standard, OSHA finds that it raises no feasibility concerns.

commenter corroborates OSHA's conclusion that employees are now far less likely to utilize fires for warmth, the primary concern that prompted OSHA to issue the standard. Finally, OSHA believes that open fires resulting from vandalism, if they were to occur, would occur with or without an applicable OSHA standard.

For these reasons, OSHA finds that the Open Fires Standard, 29 CFR 1917.21, is no longer necessary to protect employees in marine terminals and is finalizing the revocation of the standard.

V. Final Economic Analysis

Executive Orders 12866 and 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)) require that OSHA estimate the benefits, costs, and net benefits of regulations, and analyze the impacts of certain rules that OSHA promulgates. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This final rule is not a ''significant regulatory action'' under Executive Order 12866 or UMRA, or a ''major rule'' under the Congressional Review Act (5 U.S.C. 801 *et seq.*). Neither the benefits nor the costs of this final rule will exceed $100 million in any given year. This final rule will, however, result in a net cost savings for employers in marine terminal and longshoring operations, which are the only industries throughout OSHA's jurisdiction affected by the rescission of 29 CFR 1917.21.

Furthermore, as discussed below in Review Under the Regulatory Flexibility Act, because the final rule will not impose any costs, OSHA certifies that it will not have a significant economic impact on a substantial number of small entities.

OSHA estimates that there are currently 2,617 establishments in the maritime industry affected by OSHA standards addressing open fires (U.S. Census Bureau, 2024). These establishments are found in the following industries: Port and Harbor Operations (NAICS 488310), Marine Cargo Handling (NAICS 488320), Navigational Services to Shipping (NAICS 488330), and Other Support Activities for Water Transportation (NAICS 488390). The revocation of the Open Fires Standard will, among other things, eliminate the time necessary for new establishments and newly hired occupational health and safety specialists at existing establishments to familiarize themselves with the requirements found in 29 CFR 1917.21. Based on an average annual establishment entry rate of 10 percent (U.S. Census Bureau, 2025), an average hire rate of 43.9 percent (BLS, 2025), and 10 minutes less time spent on regulatory familiarization at a loaded hourly wage rate for an occupational health and safety specialist of $65.41, OSHA estimates that this deregulatory action will mean $15,377 in cost savings annually.

OSHA also estimated the impacts under an alternative scenario where only new entrants into the industry would be affected by the revocation of 29 CFR 1917.21. This scenario assumes that for non-entrant (*i.e.,* existing) establishments within an industry, the familiarization time saved for newly hired occupational health and safety specialists is negligible due to knowledge of the requirements in section 1917.21 retained institutionally within the business entity by team leaders and other senior production staff. For this scenario, cost savings that result from rescinding section 1917.21 would be $2,853 annually.

A third impact scenario, one that is likely closer to the real-world environment for the retention and communication of safety and health information in most workplaces, would be the midpoint of the two extreme cases described above. Under this mid-range scenario, approximately half of the affected establishments would retain staff whose complete knowledge of the rescinded standards would substitute for the familiarization time needed by the newly hired health and safety specialists. Viewed alternatively, under this mid-range scenario, all affected establishments retain veteran staff who can briefly inform the new safety and health specialist of the status of standards such as section 1917.21 in less time (roughly five minutes) than would be necessary in the absence of institutional knowledge (ten minutes). OSHA estimates that this would result in cost savings of $9,115 annually.

OSHA's estimate of cost savings may underestimate total cost savings if the elimination of the labor burden for regulatory familiarization extends to the avoidance of unnecessary safety training of employees.

OSHA presented this analysis in its proposed rule and requested public comment on its analysis of the cost savings for marine terminal and longshoring operations from the revocation of the Open Fires Standard, 29 CFR 1917.21. No comments addressing the analysis were received. Therefore, OSHA's estimates of the costs and benefits of this final rule remain unchanged from the proposal.

Sources

Bureau of Labor Statistics (BLS). (2025). Occupational Employment and Wage Statistics—May 2024 (Released April 2, 2025). Available at *https://www.bls.gov/oes/tables.htm* (Accessed April 11, 2025)

U.S. Census Bureau. (2024). County Business Patterns 2022 (Released June 27, 2024). Available at *https://www.census.gov/programs-surveys/cbp.html* (Accessed July 17, 2024)

U.S. Census Bureau. (2025). Business Dynamics Statistics. Available at *https://bds.explorer.ces.census.gov/?xaxis-id=year&xaxis-selected=2018,2019,2020,2021,2022&group-id=none&measure-id=estabs_entry_rate&chart-type=bar* (Accessed June 6, 2025)

Review Under the Regulatory Flexibility Act

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

OSHA reviewed this rescission under the provisions of the Regulatory Flexibility Act. This rule eliminates a burdensome regulation. Therefore, OSHA certifies that the rescission will not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. OSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

VI. Additional Requirements

A. Requirements for States With OSHA-Approved State Plans

Under section 18 of the OSH Act (29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards that are ''at least as effective'' as the Federal standards in providing safe and healthful employment and places of employment (29 U.S.C. 667). OSHA refers to these OSHA-approved,

State-administered occupational safety and health programs as ''State Plans.''[2]

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, State Plans must either amend their standards to be identical to or ''at least as effective as'' the new Federal standard or amendment or show that an existing State Plan standard covering this issue is ''at least as effective'' as the new Federal standard or amendment (29 CFR 1953.5(a)). However, when OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plans do not have to amend their standards, although they may opt to do so.

In the proposed rule, OSHA preliminarily determined this rule would not impose additional or more stringent requirements than the existing standard, and therefore State Plans would not be required to amend their standards in response. OSHA received one comment related to this determination. The comment was from the OSHSPA, which agreed with OSHA's determination that State Plans should not be required to amend their standards to adopt this rule. OSHA received no other comments disputing OSHA's preliminary conclusion that this proposed rule does not impose additional or more stringent requirements than the existing standard. Therefore, OSHA is finalizing its determination that State Plans are not required to amend their standards. OSHA agrees with OSHSPA that the OSH Act requires State Plans to have standards that are ''at least as effective'' as OSHA's but allows State Plans to be more stringent than OSHA in protecting the safety and health of workers in their respective jurisdictions. This rulemaking does not change that authority. Consequently, State Plans are not obligated to make any changes to their existing standards in response to this final rule.

B. OMB Review Under the Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) defines ''collection of information'' to mean ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format'' (44 U.S.C. 3502(3)(A)). Under the PRA, a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and the agency displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512(a)(1)). The process for OMB approval is found in 5 CFR part 1320. This final rule imposes no new information collection requirements and does not affect the currently approved information collections in Marine Terminals (29 CFR Pt. 1917) and Longshoring (29 CFR Pt. 1918) (OMB Control Number 1218–0196). Accordingly, OMB approval of information collections is not required for this final rule.

C. Review Under Executive Order 12866

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

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

D. Environmental Impacts/National Environmental Policy Act (NEPA)

OSHA has reviewed this final rule according to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), as amended by the Fiscal Responsibility Act of 2023 (Pub. L. 118–5, 321, 137 Stat. 10), and the Department of Labor's NEPA procedures (29 CFR part 11).

Pursuant to 29 CFR 11.10, the promulgation, modification, or revocation of any OSHA safety standard is categorically excluded from the requirement to prepare an environmental assessment under NEPA absent extraordinary circumstances indicating the need for such an assessment. OSHA finds that this final rule presents no such extraordinary circumstances.

E. Other Statutory and Executive Order Considerations

OSHA has considered its obligations under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*) and the Executive Orders on Consultation and Coordination With Indian Tribal Governments (E.O. 13175, 65 FR 67249 (Nov. 6, 2000)), Federalism (E.O. 13132, 64 FR 43255 (Aug. 10, 1999)), and Protection of Children From Environmental Health Risks and Safety Risks (E.O. 13045, 62 FR 19885 (Apr. 23, 1997)). Given that this is a final deregulatory action that involves the removal of requirements, that OSHA does not foresee economic impacts of $100 million or more, and that the action does not constitute a policy that has federalism or tribal implications, OSHA has determined that no further agency action or analysis is required to comply with these statutes and executive orders. Furthermore, OSHA has determined that this final rule is consistent with the policies and directives outlined in E.O. 14192, ''Unleashing Prosperity Through Deregulation'' and is an Executive Order 14192 deregulatory action.

List of Subjects in 29 CFR 1917

Health, Longshore and Harbor workers, Occupational safety and health.

VII. Authority and Signature

This document was prepared under the direction of David Keeling, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657);

[2] Of the 29 States and U.S. territories with OSHA-approved State Plans, 22 cover public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The remaining six States and one U.S. territory cover only State and local government employees: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and the Virgin Islands.

section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025); and 29 CFR part 1911.

Dated: April 23, 2026.

David Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

Final Regulatory Text

For the reasons set forth in the preamble, OSHA amends 29 CFR part 1917 as follows:

PART 1917—MARINE TERMINALS

■ 1. The authority for part 1917 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), 8–2020 (85 FR 58393), or 7–2025 (90 FR 27878), as applicable; and 29 CFR part 1911.

Sections 1917.28 and 1917.31 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart B—Marine Terminal Operations

§ 1917.21 [Reserved]

■ 2. Remove and reserve § 1917.21.

* * * * *

[FR Doc. 2026–08260 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[Docket No. FRA–2025–0077; Notice No. 2]

RIN 2130–AD11

Prosecutorial Discretion of Enforcement Attorneys

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule clarifies that FRA's Office of the Chief Counsel has discretion to decline or dismiss a violation, such as a technical violation where challenged conduct does not raise a practical safety issue.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Amanda Maizel, Attorney Adviser, FRA, telephone: (202) 308–3753, email: *Amanda.Maizel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and updating requirements to reduce unnecessary burdens without compromising transportation safety.

As part of this effort, on April 3, 2025, DOT issued a request for information in which it asked the public to assist in identifying existing regulations, guidance, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to ensure that DOT administrative actions do not undermine the national interest and that DOT achieves meaningful burden reduction while continuing to meet statutory obligations and ensure the safety of the U.S. transportation system.[1] DOT received 955 comments, including some that were rail-related and specifically received a comment from the Association of American Railroads (AAR). In addition to other proposals, AAR requested that FRA clarify in 49 CFR part 209 that FRA's Office of the Chief Counsel has discretion to dismiss a technical violation where the challenged conduct does not raise a practical safety issue.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to adopt this AAR comment and to clarify that attorneys in the Office of the Chief Counsel have enforcement discretion in all phases of a potential enforcement action.[2] FRA has broad discretion to enforce the Federal railroad safety laws and regulations, including determining the appropriate method of addressing any violation it finds.[3] Accordingly, similar to the discretion that FRA has in determining whether to transmit or decline an enforcement action, FRA also has discretion to dismiss a violation, such as a technical violation, where the challenged conduct does not raise a practical safety issue. Even where FRA has transmitted a violation and decides not to dismiss it, FRA continues to have the discretion to reduce the civil penalty, but not below the respective statutory minimum amount, adjusted annually for inflation.[4] In the NPRM, FRA noted that this clarification would streamline the enforcement process, relieve enforcement burdens on regulated entities, and promote due process and fairness. In addition, FRA noted the proposal was consistent with the Mar. 11, 2025 DOT Memorandum, *Procedural Requirements for Enforcement Actions.*[5]

FRA received three comments. The American Short Line and Regional Railroad Association (ASLRRA) submitted a comment in support of this proposal[6] but requests that FRA add a reference to its Small Entity Enforcement Policy, found in FRA's Policy Statement Concerning Small Entities at 49 CFR part 209, appendix C. The Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART–TD) and Brotherhood of Locomotive Engineers and Trainmen (BLET) submitted comments both in opposition to this proposal. Concerned that increased Office of the Chief Counsel discretion could diminish worker safety as Class I carriers could ''argue away infractions as 'not a practical safety issue,' '' SMART–TD strongly recommended that FRA provide a clear, narrow definition of a technical violation and publicly report each dismissal, and that rail labor should be permitted to review violation categories considered for dismissal.[7] Recognizing that FRA has discretion in determining and enforcing violations, BLET is concerned that using the term ''practical safety issue'' as a test of when expanded discretion may be utilized will create unnecessary confusion and

[1] 90 FR 14593 (Apr. 3, 2025).

[2] 90 FR 28609 (July 1, 2025).

[3] *Railway Labor Executives Ass'n* v. *Dole,* 760 F.2d 1021, 1025 (9th Cir. 1985) (finding ''nothing in the railroad safety legislation to indicate Congress intended to make prosecutorial discretion subject to judicial review,'' and upholding the dismissal of a challenge to the Secretary of Transportation's safety plan that stressed cooperation with railroads in finding and remedying safety problems).

[4] *See* Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

[5] *See Procedural Requirements for Enforcement Actions,* Mar. 11, 2025, available at *https://www.transportation.gov/sites/dot.gov/files/2025-03/Procedural%20Requirements%20for%20DOT%20Enforcement%20Actions.Cote%20Memo.Signed.03-11-2025.pdf.*

[6] *https://www.regulations.gov/comment/FRA-2025-0077-0004.*

[7] *https://www.regulations.gov/comment/FRA-2025-0077-0002.*

uneven enforcement.[8] If FRA chooses to move forward with this rule, BLET stated that the term ''practical safety issue'' must be defined for consistency.

In response to ASLRRA's feedback, FRA notes that it recently addressed the civil penalty concerns ASLRRA raised through another mechanism. Specifically, on FRA's website, FRA describes its Small Entity Consideration,[9] as follows:

> FRA understands that small entities in the railroad industry have significantly different characteristics than larger carriers and shippers. FRA believes that these differences necessitate careful consideration to ensure that small entities receive appropriate treatment on compliance and enforcement matters, and such treatment enhances the safety of railroad operations. FRA has discretion in determining which instances of noncompliance by small entities merit penalty recommendations and the amounts for recommended civil monetary penalties. See 49 CFR part 209, appendix C. Consistent with this policy, FRA will typically reduce an initial assessed guideline penalty by 50% for small entities.

FRA declines to adopt SMART–TD's recommendation to include a public report of each dismissal, due to resource constraints. However, any dismissal will be reported in FRA's Annual Enforcement Report (issued on its website for each fiscal year).

FRA also declines to adopt the recommendations of both SMART–TD and BLET to define a ''technical violation'' or ''practical safety issue,'' as what may be considered ''technical'' is a matter within FRA's discretion and FRA has determined that this flexibility is desirable to maintain, and FRA makes this determination on a case-by-case basis. For example, FRA could cite a railroad with an alleged violation of a railroad safety regulation, but during settlement discussions, the railroad may contend that while a violation occurred in a technical sense, the violation cited did not raise a practical safety issue based on the facts presented in the case, and if FRA agrees, FRA could dismiss the violation as a matter of the Office of the Chief Counsel's prosecutorial discretion.[10]

FRA proposed adding language that simply memorializes existing practice in FRA's Statement of Agency Policy Concerning Enforcement of Federal Railroad Safety Laws. However, in an effort to provide guidance and clarity, FRA notes the following example of what it may find to be a ''technical violation.'' Specifically, FRA may cite a railroad for an alleged violation of 49 CFR 218.101 for an unattended car left fouling an adjacent track. Though a fouling violation often presents a critical safety issue, during settlement discussions, a railroad could argue that the adjacent track being fouled had been out of service for years, with the switch accessing the track lined, locked, and spiked, suggesting that there was little practical safety impact from the observed fouling equipment in this situation. As such, in this example, the Office of the Chief Counsel could determine that this alleged violation, given these particular facts, is ''technical'' in nature and may not merit further prosecution.

This final rule is also consistent with a DOT NPRM published May 16, 2025, titled Administrative Rulemaking, Guidance, and Enforcement Procedures. In this NPRM, DOT proposes to affirm that attorneys and policy makers have broad discretion in deciding whether to initiate an enforcement action as long as the decision is based upon a reasonable interpretation of the law about which the public has received fair notice and should be made with due regard for fairness, the facts and evidence adduced through an appropriate investigation or compliance review, the availability of scarce resources, the administrative needs of the responsible DOT agency or DOT component, Administration policy, and the importance of the issues involved to the fulfillment of the DOT's statutory responsibilities.[11]

For these reasons, FRA is finalizing the revision to appendix A to part 209 as proposed.

II. Section-by-Section Analysis

Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of Federal Railroad Safety Laws

As discussed above, this final rule clarifies that FRA's Office of the Chief Counsel has discretion to decline to enforce a violation, such as a technical violation where the challenged conduct does not raise a practical safety issue. FRA adds this statement to the discussion of FRA's Civil Penalty Process in appendix A to part 209. FRA also makes minor revisions, as proposed, to the Civil Penalty Process discussion, including removing a description of where settlement conferences are held and updating the discussion of how smaller railroads usually prefer to handle negotiations to reference ''email'' rather than ''mail.''

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This rule clarifies that FRA's Office of the Chief Counsel has discretion to decline or dismiss a violation, such as when the challenged conduct does not raise a practical safety issue. By providing this clarification, regulated entities will benefit from a streamlined enforcement process, relief from enforcement burdens, and the promotion of due process and fairness. This clarification will also help to eliminate any confusion on the Office of the Chief Counsel's discretionary authority to decline to enforce or to dismiss a technical violation where the challenged conduct does not raise a practical safety issue. FRA requested comments on any potential costs from this rule during the NPRM comment period and received none.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for

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[8] *https://www.regulations.gov/comment/FRA-2025-0077-0003.*

[9] *https://railroads.dot.gov/legislation-regulations/civil-penalties-schedules-guidelines.*

[10] Similarly, FRA's Office of Railroad Safety could observe and recommend a violation of an FRA regulation, and FRA's Office of the Chief Counsel could decline to prosecute the violation, in its discretion. As discussed in a report on FRA's use of civil penalties, the operative principle inherent in the administration of FRA's safety regulatory program is discretion, discretion by which FRA's response to deviations from Federal safety standards, whether major or minor, can be calibrated to achieve a proportionality that both serves the agency's purpose and inspires the respect of the regulated community. *See The Federal Railroad Administration's Use of Civil Penalties in the Federal Railroad Safety Program,* The Ventura Group (2009), p.6, available as appendix B to FRA's Fiscal Year 2009 Enforcement Report, at *https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/282/Annual_Enforcement_Report_2009.pdf.* This informed discretion, exercised at each level of FRA's safety structure permits small or large steps up or down the ladder of enforcement tools, as well as calibration within the application of each tool, depending on the particular rule and particular facts at issue in a given case. *Id.*

[11] *See* 90 FR 20956 (May 16, 2025).

elimination.'' [12] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[13]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have total costs less than zero, and therefore will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[14] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

In the NPRM, FRA certified that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification.

This final rule will not preclude small entities from continuing practices that comply with part 209. By extending this regulatory relief, many regulated entities, including small entities, will experience benefits. Consequently, FRA holds to its previous certification that the final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [15] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 209

Administrative practice and procedure, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 209 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 209 continues to read as follows:

Authority: 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. In appendix A to part 209 in the section under the heading ''The Civil Penalty Process,'' revise the second-to-last paragraph, to read as follows:

Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws

* * * * *

The Civil Penalty Process

* * * * *

Once penalties have been assessed, the railroad is given a reasonable amount of time to investigate the charges. Larger railroads usually make their case before FRA in an informal conference covering a number of case files that have been issued and investigated since the previous conference. Thus, in terms of the negotiating time of both sides, economies of scale are achieved that would be impossible if each case were negotiated separately. The settlement conferences include technical experts from

[12] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[13] Executive Office of the President, OMB. Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[14] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[15] 66 FR 28355 (May 22, 2001).

both FRA and the railroad as well as lawyers for both parties. Similar to the discretion that the Office of the Chief Counsel has in determining whether to transmit an enforcement action or to decline to prosecute a recommended violation, the Office also has discretion to dismiss a violation, such as a technical violation where the challenged conduct does not raise a practical safety issue. Even if FRA determines not to dismiss the violation, FRA continues to have the discretion to reduce the penalty, but not below the relevant statutory minimum amount. In addition to allowing the two sides to make their cases for the relative merits of the various claims, these conferences also provide a forum for addressing current compliance problems. Smaller railroads usually prefer to handle negotiations through email or over the phone, often on a single case at a time. Once the two sides have agreed to an amount on each case, that agreement is put in writing and a payment is submitted to FRA's accounting division covering the full amount agreed on.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08250 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209, 213, 217, 219, 227, 229, 230, 232, 238, 239, 240, 241, and 242

[Docket No. FRA–2025–0109; Notice No. 2]

RIN 2130–AD22

Removal of Unnecessary and Outdated Paperwork Reduction Act References

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule removes thirteen unnecessary and outdated sections throughout FRA's regulations referencing the approval of information collection requirements by the Office of Management and Budget (OMB).

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908; or Elliott Gillooly, Attorney Adviser, at *elliott.gillooly@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing provisions that are outdated and unnecessary without compromising transportation safety.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that identified 13 sections throughout its regulations that unnecessarily recite the approval of information collection requirements by OMB, state the assigned OMB control number associated with the entire CFR part, and list specific sections that contain information collection requirements. FRA proposed the removal of those 13 sections. 90 FR 28622.

FRA received two comments on the NPRM. The Brotherhood of Locomotive Engineers and Trainmen (BLET) commented, in part, that the rule proposed in the NPRM would ''make it harder to access certain information collection forms.'' FRA is not making any changes to the rule in response to BLET's comment because, as explained further here, the removal of the sections noted in the Section-by-Section Analysis will not affect any substantive safety requirement nor will it reduce or hinder access to current, verifiable information that railroad employees and the public may need in order to confirm they are using the most recent forms approved for use by FRA and OMB.

BLET notes that FRA forms displaying OMB control numbers ''are not meaningless forms with useless bureaucratic information.'' FRA agrees that its forms displaying OMB control numbers are important, and those that the railroad industry uses to comply with FRA safety regulations are necessary for compliance with those regulations and ultimately serve an essential safety function. All of FRA's safety-related forms are readily available online at: *https://railroads.dot.gov/safety-data/forms-guides-publications/forms/current-forms.*

Each form displays an OMB control number, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520 (PRA). The best and most accurate way for railroad employees and the public to confirm that a form is approved by OMB is to reference the control number, explanatory statement, and expiration date that are clearly displayed on each form. BLET's comments reflect a concern that verifying the accuracy and legitimacy of FRA forms would be more difficult if the sections of the CFR stating OMB control numbers are deleted. Specifically, BLET believes railroaders would then be required to navigate multiple Government websites that they rarely use, instead of simply referring to the CFR. However, FRA finds this concern misplaced. The forms that railroad employees need to access, including the relevant OMB control numbers, are readily available on a single website maintained by FRA and provided above (and all forms that railroad employees encounter in the field also display current OMB control numbers). Removing the 13 sections identified merely reduces the volume of regulatory text in the CFR and removes outdated cross-references related to the PRA without impacting any substantive safety regulation.

In addition, an individual commenter stated that FRA did not explain what specific safety obligations are ''being eliminated'' or what risk assessment supports their removal, and that the rule lacks a clear technical or safety rationale. The commenter also stated that ''the broad sweep of this deregulatory action undercuts transparency and accountability in rulemaking.'' In response, FRA reiterates that this rule does not eliminate any safety obligations, and there is no risk to safety associated with the removal of these unnecessary and outdated sections of the CFR. While this cleanup of FRA's regulations does span 13 CFR parts, it is narrowly focused on extraneous provisions, as FRA explained in the NPRM.

II. Section-by-Section Analysis

Please refer to the Section-by-Section Analysis in the NPRM,[1] as FRA has adopted the rule text as proposed and for the reasons provided in the NPRM.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. OMB's Office of Information and Regulatory Affairs determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

[1] 90 FR 28622 (July 1, 2025).

FRA analyzed the potential costs and benefits of this final rule. Regulated entities will benefit because removing each of the 13 sections that list OMB control numbers will eliminate potential confusion. The lists of cross-referenced sections that are associated with each OMB control number are outdated and unnecessary, making their removal the most practical solution to eliminate inaccuracies. In addition, removing these sections will reduce the amount of CFR text that regulated entities must read. The Government will also benefit from a reduced cost of publishing the CFR since the removed sections collectively add pages to the CFR.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [2] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[3]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule is expected to have total costs less than zero; therefore, it is considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[4] and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule removes outdated and unnecessary regulatory sections without adding any regulatory burden or costs for any entity. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule contains no new information collection requirements, nor does it alter the burden associated with any existing information collection requirements under the PRA.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [5] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects

49 CFR Part 209

Administrative practice and procedure, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 213

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 217

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety,

[2] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[3] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[4] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[5] 66 FR 28355 (May 22, 2001).

Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 227

Hazardous materials transportation, Locomotive noise control, Occupational safety and health, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 229

Locomotives, Railroad safety, Remote control locomotives.

49 CFR Part 230

Penalties, Railroad safety, Reporting and recordkeeping requirements, Steam locomotives.

49 CFR Part 232

Power brakes, Railroad safety, Securement, Two-way end-of-train devices.

49 CFR Part 238

Fire prevention, Passenger equipment, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 239

Passenger train emergency preparedness, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 240

Administrative practice and procedure, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 241

Communications, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 242

Administrative practice and procedure, Conductor, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends parts 209, 213, 217, 219, 227, 229, 230, 232, 238, 239, 240, 241, and 242 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 209 continues to read as follows:

Authority: 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 209.337 [Removed]

■ 2. Remove § 209.337.

PART 213—TRACK SAFETY STANDARDS

■ 3. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 213.19 [Removed]

■ 4. Remove § 213.19.

PART 217—RAILROAD OPERATING RULES

■ 5. The authority citation for part 217 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20168, 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 217.13 [Removed]

■ 6. Remove § 217.13.

PART 219—CONTROL OF ALCOHOL AND DRUG USE

■ 7. The authority citation for part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461 note; Div. A, Sec. 412, Pub. L. 110–432, 122 Stat. 4889 (49 U.S.C. 20140 note); Sec. 8102, Pub. L. 115–271, 132 Stat. 3894; and 49 CFR 1.89.

§ 219.21 [Removed]

■ 8. Remove § 219.21.

PART 227—OCCUPATIONAL SAFETY AND HEALTH IN THE LOCOMOTIVE CAB

■ 9. The authority citation for part 227 continues to read as follows:

Authority: 49 U.S.C. 20103, 20103 note, 20166, 20701–20703, 21301, 21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 227.15 [Removed]

■ 10. Remove § 227.15.

PART 229—RAILROAD LOCOMOTIVE SAFETY STANDARDS

■ 11. The authority citation for part 229 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20137–38, 20143, 20168, 20701–03, 21301–02, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 229.4 [Removed]

■ 12. Remove § 229.4.

PART 230—STEAM LOCOMOTIVE INSPECTION AND MAINTENANCE STANDARDS

■ 13. The authority citation for part 230 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 230.9 [Removed]

■ 14. Remove § 230.9.

PART 232—BRAKE SYSTEM SAFETY STANDARDS FOR FREIGHT AND OTHER NON-PASSENGER TRAINS AND EQUIPMENT; END-OF-TRAIN DEVICES

■ 15. The authority citation for part 232 is revised to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–20302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 232.21 [Removed]

■ 16. Remove § 232.21.

PART 238—PASSENGER EQUIPMENT SAFETY STANDARDS

■ 17. The authority citation for part 238 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 238.23 [Removed]

■ 18. Remove § 238.23.

PART 239—PASSENGER TRAIN EMERGENCY PREPAREDNESS

■ 19. The authority citation for part 239 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 239.15 [Removed]

■ 20. Remove § 239.15.

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

■ 21. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 240.13 [Removed]

■ 22. Remove § 240.13.

PART 241—UNITED STATES LOCATIONAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

■ 23. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461 note; 49 CFR 1.89.

§ 241.19 [Removed]

■ 24. Remove § 241.19.

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 25. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 242.13 [Removed]

■ 26. Remove § 242.13.

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08249 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 212

[Docket No. FRA–2025–0080, Notice No. 2]

RIN 2130–AD07

Administrative Updates to the Federal Railroad Administration's State Safety Participation Regulations

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Final rule; technical amendment.

SUMMARY: On July 1, 2025, FRA published a final rule making miscellaneous, administrative updates to its State safety participation regulations. In that rule, FRA inadvertently removed language from the Code of Federal Regulations (CFR), which necessitates this technical amendment to effectuate FRA's intent.

DATES: Effective April 28, 2026.

FOR FURTHER INFORMATION CONTACT: Veronica Chittim, Assistant Chief Counsel for Safety, Office of the Chief Counsel, FRA, (telephone 202–480–3410), *veronica.chittim@dot.gov;* or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, FRA (telephone 202–657–2842), *lucinda.henriksen@dot.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 2025, FRA published a final rule making miscellaneous, administrative updates to its State safety participation regulations in 49 CFR part 212. 90 FR 28130. In that rule, FRA made drafting errors in instruction numbers 7 and 19, which necessitates this technical amendment to effectuate FRA's intent.

FRA is promulgating these amendments without advance notice or an opportunity for comment because they fall under the ''good cause'' exemption of the Administrative Procedure Act. 5 U.S.C. 553(b)(B). FRA finds that notice and comment are unnecessary here because these corrections are merely technical.

§ 212.201 General Qualifications of State Inspection Personnel

Instruction No. 7 in the final rule published at 90 FR 28132 revised section 212.201(d). FRA only meant to revise the introductory text of paragraph (d). However, because of an inaccurate amendatory instruction, the paragraph (d) subparagraphs were inadvertently removed from the CFR. Because FRA intended to keep the rest of paragraph (d) intact, this rule and amendment reinstates paragraphs (d)(1) through (5) as they existed before July 1, 2025.

§ 212.233 Apprentice Highway-Rail Grade Crossing Inspector

Instruction No. 19 in the final rule published at 90 FR 28134 revised section 212.233(a). However, FRA failed to identify the intended revision to the section heading in the set-out text to ''Apprentice grade crossing and trespasser inspector.'' Because FRA intended to revise the section heading for consistency, this rule is necessary.

List of Subjects in 49 CFR Part 212

Hazardous materials transportation, Intergovernmental relations, Investigations, Railroad safety.

The Final Rule

In consideration of the foregoing, FRA amends part 212 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 212—STATE SAFETY PARTICIPATION REGULATIONS

■ 1. The authority citation for part 212 continues to read as follows:

Authority: 49 U.S.C. 20103, 20105, 20106, and 20113, and 49 CFR 1.89.

■ 2. Amend § 212.201 by revising paragraph (d) to read as follows:

§ 212.201 General qualifications of State inspection personnel.

* * * * *

(d) Each inspector shall demonstrate:

(1) The ability to read and comprehend written materials such as training and enforcement manuals, regulations, operating and safety rules of the railroad, and similar materials;

(2) The ability to compose narrative reports of investigative findings that are clear, complete, and grammatically acceptable;

(3) The ability to record data on standard report forms with a high degree of accuracy;

(4) The ability to communicate orally; and

(5) Basic knowledge of rail transportation functions, the organization of railroad, shipper, and manufacturer companies, and standard industry rules for personal safety.

* * * * *

■ 3. Amend § 212.233 by revising the section heading to read as follows:

§ 212.233 Apprentice grade crossing and trespasser inspector.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08252 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA–2025–0116; Notice No. 2]

RIN 2130–AD49

Repealing a Track Surface Requirement

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule repeals the runoff parameter from FRA's track surface requirements for track Classes 1 through 5. FRA has found that other geometry requirements in FRA's regulations already address the same safety issue.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, FRA, telephone: (202) 493–6460, email: *yujiang.zhang@dot.gov;* or Aaron Moore, Senior

Attorney, FRA, telephone: (202) 853–4784, email: *aaron.moore@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to repeal the runoff parameter from 49 CFR 213.63 in FRA's track surface requirements. 90 FR 28626. During the comment period that closed on September 2, 2025, FRA received comments from the Brotherhood of Maintenance of Way Employes Division (BMWED) [1] and the International Association of Sheet Metal, Air, Rail, and Transportation Workers—Transportation Division (SMART–TD).[2]

In summary, BMWED supports the repeal of the runoff parameter in section 213.63(a), contingent upon the continued enforcement of overlapping and technically sufficient surface condition standards, as that runoff parameter is redundant. Conversely, SMART–TD urges FRA to withdraw this rulemaking, as SMART–TD contends that the runoff parameter is unique, necessary, and irreplaceable. FRA disagrees with SMART–TD and discusses the comments it received further in the *Section-by-Section Analysis* of this final rule. FRA finalizes the NPRM as proposed.

II. Section-by-Section Analysis

Section 213.63 Track Surface

Paragraph (a) of this section requires each track owner to maintain the surface of its track within certain parameters set forth in the table. A working group of FRA's Railroad Safety Advisory Committee (RSAC) previously considered removing the surface runoff parameter from FRA's regulations between 2019 and 2022.[3] In the NPRM, FRA proposed to repeal the runoff parameter from the existing table in paragraph (a) (*i.e.,* the first row of the table).[4] The other parameters in FRA's regulations, including the thresholds outlined in existing paragraph (a), already capture the same track surface safety concerns.

In its comments, BMWED supports the repeal of the runoff parameter in section 213.63(a), contingent upon the continued enforcement of overlapping and technically sufficient surface condition standards. BMWED comments that runoff has become functionally redundant and is a legacy parameter no longer necessary for ensuring compliance or safety. BMWED also requests that FRA take the following actions: (1) clarify that inspectors retain the authority to cite hazardous surface conditions outside specific numeric thresholds, including updating FRA's Track Safety Standards Compliance Manual to make that statement; (2) reaffirm its commitment to the RSAC process for future technical rulemakings; and (3) conduct post-repeal monitoring to verify continued safety performance.

FRA appreciates BMWED's support of this rule and agrees that the runoff parameter under existing section 213.63(a) is redundant and unnecessary. In response to BMWED's three requests, first, FRA clarifies that this final rule does not limit an FRA inspector's ability to take enforcement action for unsafe conditions, consistent with 49 CFR part 213. FRA will continue enforcing its track safety requirements. Also, FRA expects railroad inspectors to protect a geometry condition before it reaches the limit, if they are concerned the track may degrade further prior to the next inspection.

Second, FRA appreciates BMWED's support for RSAC and agrees that RSAC may be the appropriate forum for the agency's various stakeholders to exchange information relating to the safety of rail operations. Third, FRA will continue to oversee railroads' track safety, including by conducting field inspections and automated track inspections.

In its comments, SMART–TD urges FRA to withdraw this rulemaking, as SMART–TD expects that repealing the runoff parameter will embolden railroads to accept track conditions that place crews and the public at greater risk of injury and derailment. SMART–TD argues that the runoff parameter is unique, necessary, and irreplaceable in the rulebook. SMART–TD asserts that the runoff parameter exists for a reason—that is, to control lateral motion in track transitions: ''Lateral instability increases the risk of derailment, introduces unsafe forces into locomotives and cars, and magnifies wear and tear on track components. Over time, unchecked lateral motion compounds into more rapid track degradation, creating a cycle of instability that ends in catastrophe.'' [5]

FRA does not agree with SMART–TD that the runoff provision is ''irreplaceable,'' or that repealing it will reduce safety. The runoff parameter under section 213.63(a) was meant to confront situations where track is elevated because of surfacing or bridge work, not degradation or deterioration. When trains encounter this ramp, they experience a vertical pitch or bounce if the elevation occurs in too short a distance. However, FRA's experience is that railroad maintenance practices make the limit unnecessary. FRA is confident that the existing limits for surface profile detect the same unsafe conditions. Like runoff, the profile parameter covers vertical changes in the surface uniformity of the rail, the only difference being it is measured over a 62-foot distance as opposed to runoff, which is measured at a 31-foot distance.

With that said, FRA generally agrees with SMART–TD's comments about the safety risks of track surface conditions causing undesirable in-train forces and the value of locomotive engineers and conductors reporting rough track. The existing geometry limits under profile, crosslevel, and warp cover this concern, and are not modified by this rulemaking.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This final rule repeals the runoff parameter in FRA's track surface requirements, and therefore, this final rule will reduce the regulatory burden on track owners by

[1] *https://www.regulations.gov/comment/FRA-2025-0116-0002.*

[2] *https://www.regulations.gov/comment/FRA-2025-0116-0003.*

[3] *See* Track Standards Working Group Update, June 27, 2022, available at *https://rsac.fra.dot.gov/meetings?id=61;* Track Standards Working Group Update, Dec. 12, 2022, available at *https://rsac.fra.dot.gov/meetings?id=62;* Approved Minutes from Dec. 12, 2022, RSAC Meeting, available at *https://rsac.fra.dot.gov/meetings?id=63.*

[4] 90 FR 28626 (July 1, 2025).

[5] *https://www.regulations.gov/comment/FRA-2025-0116-0003.*

eliminating the costs to measure and meet the runoff parameters currently set forth in 49 CFR 213.63(a). This rule will provide cost savings to regulated entities. In addition, this rule will provide some qualitative benefits to regulated entities and the U.S. government by eliminating an unnecessary requirement from part 213.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [6] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[7]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have total costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Fairness Act of 1996,[8] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term small entities comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. By extending this regulatory relief, many regulated entities, including small entities, will experience cost savings. Consequently, FRA certifies that this final rule will not have a significant impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it does not impose any new information collection requirements or modify any existing information collection requirements. Therefore, an information collection submission to OMB is not required under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.* The existing recordkeeping and reporting requirements contained in part 213 became effective when they were approved by OMB on February 7, 2024. The OMB control number is OMB No. 2130–0010, and OMB approval expires on February 28, 2027.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [9] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 213

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 213 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 213—TRACK SAFETY STANDARDS

■ 1. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Revise § 213.63(a) to read as follows:

[6] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[7] Executive Office of the President, OMB, Guidance Implementing Section 3 of E.O. 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20, (Mar. 26, 2025).

[8] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[9] 66 FR 28355 (May 22, 2001).

§ 213.63 Track surface.

(a) Except as provided in paragraph (b) of this section, each track owner shall maintain the surface of its track within the limits prescribed in the following table:

Track surface (inches)	Class of track				
	1	2	3	4	5
The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may not be more than	3	2¾	2¼	2	1¼
The deviation from zero crosslevel at any point on tangent or reverse crosslevel elevation on curves may not be more than	3	2	1¾	1¼	1
The difference in crosslevel between any two points less than 62 feet apart may not be more than * [1] [2]	3	2¼	2	1¾	1½
* Where determined by engineering decision prior to June 22, 1998, due to physical restrictions on spiral length and operating practices and experience, the variation in crosslevel on spirals per 31 feet may not be more than	2	1¾	1¼	1	¾

[1] Except as limited by § 213.57(a), where the elevation at any point in a curve equal or exceeds 6 inches, the difference in crosslevel within 62 feet between that point and a point with greater elevation may not be more than 1½ inches.

[2] However, to control harmonics on Class 2 through 5 jointed track with staggered joints, the crosslevel differences shall not exceed 1¼ inches in all of six consecutive pairs of joints, as created by seven low joints. Track with joints staggered less than 10 feet apart shall not be considered as having staggered joints. Joints within the seven low joints outside of the regular joint spacing shall not be considered as joints for purposes of this footnote.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08245 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. FRA–2025–0118; Notice No. 2]

RIN 2130–AD54

Removing Stenciling Requirement for Freight Cars Used for Tourist, Historic, Excursion, Educational, Recreational, or Private Purposes and Not Interchanged

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule excludes railroad freight cars used exclusively for tourist, historic, excursion, educational, recreational, or private purposes and that are not interchanged from the requirement that all restricted freight cars, including cars more than 50 years old, be stenciled with specific information.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Steven Zuiderveen, Railroad Safety Specialist, Office of Railroad Safety, at email: *steven.zuiderveen@dot.gov* or telephone: (202) 493–6337 or Elliott Gillooly, Attorney Adviser, at email: *elliott.gillooly@dot.gov* or telephone (202) 897–8666.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) providing FRA's reasons for exempting freight cars used for tourist, historic, excursion, educational, recreational, or private purposes (THEERP) from the general stenciling requirement applicable to restricted cars, provided such THEERP cars are not interchanged among railroads. 90 FR 28639. FRA received two comments on the NPRM. The first comment supported the proposed rule, stating that it ''allow[s] for relief of paperwork burdens and would not diminish safety expectations.'' The second comment opposed the proposed rule, stating that deregulation always benefits businesses and harms the American taxpayer. The comment in opposition was not specific to any aspect of the proposed rule and states an opinion only about deregulation generally. Accordingly, FRA is finalizing the rule without change for the reasons stated in the NPRM.

II. Section-by-Section Analysis

Section 215.303 Stenciling of Restricted Cars

Prior to this rule, section 215.303 required any car described in ''§ 215.205(a)'' of part 215 to be stenciled or marked to display certain information relevant to restricted freight cars, such as the car's age and those components needed to indicate completely the basis for the restricted operation of the car. FRA is exempting THEERP cars from this requirement. In addition, FRA is correcting the reference to section 215.205(a), which is a typographical error, with the correct reference to section 215.203(a). For more information, please see the Section-by-Section Analysis in the NPRM, as FRA is adopting the regulatory text as originally proposed.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This final rule excludes THEERP cars from being stenciled with specific information, and therefore, this final rule will impose no additional burdens on regulated entities. This final rule will provide some qualitative benefits to regulated entities,

by clarifying the language of part 215. In addition, railroads (or other owners of THEERP cars) will realize cost savings as they will not incur the costs of stenciling and marking cars that are used for tourist, historic, excursion, educational, recreational, or private purposes and not interchanged. Moreover, the amendments will result in cost savings for the owners of these cars as they will no longer be required to file individual petitions for waivers from the stenciling requirements. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [1] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[2]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have total costs less than zero. Therefore, it will be considered an E.O. 14192 deregulatory action upon issuance. FRA affirms that each amendment in this final rule has a cost that is negligible or ''less than zero'' consistent with E.O. 14192.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[3] and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. By extending this regulatory relief, many regulated entities, including small entities, will not experience any additional burdens. In fact, many of the small entities that would submit waiver petitions in the absence of this rule will now no longer have to submit such requests. While there is time saved by no longer being required to submit waiver requests, it is not expected to have a significant economic impact on small entities. Therefore, even if a significant number of small entities may be impacted by this rule, the impact will not be significant. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it does not impose any new information collection requirements or modify any existing collection requirements. Stenciling requirements under section 215.303 have not previously been included in part 215 PRA burden estimates. Therefore, this rule has no effect on any OMB-approved collection of information, and a submission to OMB is not required under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [4] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S.

[1] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[2] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[3] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[4] 66 FR 28355 (May 22, 2001).

firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 215

Freight, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 215 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

■ 1. The authority citation for part 215 continues to read as follows:

Authority: 49 U.S.C. 20102–03, 20107, 20171; 28 U.S.C. 2461; and 49 CFR 1.89.

■ 2. Amend § 215.303 by revising the introductory text of paragraph (a) to read as follows:

§ 215.303 Stenciling of restricted cars.

(a) Each restricted railroad freight car that is described in § 215.203(a) of this part, except for railroad freight cars used exclusively for tourist, historic, excursion, educational, recreational, or private purposes and that are not interchanged, shall be stenciled, or marked—

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08256 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 222

[Docket No. FRA–2025–0120; Notice No. 2]

RIN 2130–AD14

Regulatory Relief To Allow Speeds Up to 45 MPH for Non-Traversable Curbs

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule revises the definition of a non-traversable curb in FRA's train horn regulation in conformance with five longstanding FRA waivers that allow highway speeds up to 45 miles per hour (mph) where these highway curbs are present in quiet zones established and maintained in accordance with the regulation.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: James Payne, Staff Director, Grade Crossing and Trespasser Outreach, FRA, telephone: (202) 441–2787, email: *James.Payne@dot.gov;* or Amanda Maizel, Attorney Adviser, FRA, telephone: (202) 308–3753, email: *Amanda.Maizel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and updating requirements to reduce unnecessary burdens without compromising transportation safety.

As part of this effort, on July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to revise the definition of a non-traversable curb to allow for speeds up to 45 mph.[1] The current definition of a non-traversable curb is established in 49 CFR part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings. The definition describes a highway curb designed to discourage a motor vehicle from leaving the roadway and notes that this curb type is used at locations where highway speeds do not exceed 40 mph, in connection with quiet zones established and maintained in accordance with the regulation. At the time that 49 CFR part 222 was issued, the American Association of State Highway and Transportation Officials (AASHTO) provided guidance that vertical curbs should not be used with speeds greater than 40 mph. Subsequently, AASHTO modified its guidance stating that vertical curbs should not be used with speeds greater than 45 mph. FRA proposed to revise the definition in 49 CFR 222.9 to conform with AASHTO's updated guidance. In addition, revising this definition conforms with the waivers that FRA has previously granted to petitioners seeking relief from the requirement that medians with non-traversable curbing may not be used where highway speeds exceed 40 mph. *See* Docket Nos. FRA–2009–0066, 2010–0137, 2012–0030, 2012–0031, and 2012–0074.

FRA received three comments in response to the NPRM—comments from the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters (BMWED), the Transportation Trades Department, AFL–CIO (TTD), and an anonymous individual. All three commenters were in support of this proposal, but BMWED and TTD recommended that FRA elaborate on appropriate engineering controls, consistent with those recommended by AASHTO. Specifically, BMWED and TTD expressed concern that the proposal raised the speed threshold and set a curb height requirement without referencing the additional design elements that AASHTO cites for vertical curb safety at 45 mph, such as adequate sight distance, superelevation and alignment compatibility, and drainage design. Both organizations, therefore, recommended that FRA explicitly reference AASHTO's Policy on Geometric Design of Highways and Streets (7th Edition, 2018) (''Green Book''), and clarify that the use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls consistent with AASHTO's guidance. As an alternative to that recommendation, BMWED proposed that FRA issue an accompanying guidance or regulatory commentary reminding State and local agencies that speed alone does not govern safe curb design.

While FRA declines to incorporate by reference AASHTO's Green Book, in response to this feedback, FRA is adding a recommendation in appendix A to part 222 that states the use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls such as those recommended by organizations such as AASHTO.

II. Section-by-Section Analysis

Section 222.9 Definitions

This final rule revises the definition of a non-traversable curb as proposed in the NPRM. The definition currently provides for use of such curbs at locations where highway speeds do not exceed 40 mph. The final rule allows use at locations where highway speeds do not exceed 45 mph. This final rule thereby codifies five longstanding waivers in connection with quiet zones established and maintained in accordance with FRA's train horn regulation.

[1] 90 FR 28646 (July 1, 2025).

Appendix A to Part 222—Approved Supplementary Safety Measures

This final rule adds a recommendation, in connection with the requirements and effective rates for the supplementary safety measure of gates with medians or channelization devices, that notes the use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls such as those recommended by organizations such as AASHTO.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this rule. This final rule revises the definition of a non-traversable curb and will codify five longstanding waivers in FRA's train horn regulation, and therefore, this final rule will impart no additional burdens on regulated entities. Moreover, this final rule will provide some qualitative benefits to regulated entities and the U.S. Government, by clarifying, simplifying, and updating the language of part 222. This final rule will result in cost savings because impacted parties will no longer be required to submit periodic, repetitive waiver requests related to the regulatory definition of a non-traversable curb. This final rule will also conform FRA regulations with guidance provided by industry.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [2] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[3]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have total costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance of this final rule. FRA affirms that each amendment proposed in this final rule has a cost that is negligible or ''less than zero'' consistent with E.O. 14192.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule will not preclude small entities from continuing existing practices that comply with part 222; it merely offers clarification that could result in cost savings, if a small entity or other regulated entity chooses to utilize these flexibilities. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it contains no new information collection requirements, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* and therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements currently in part 222 were approved by OMB on January 19, 2026. The OMB approval number is OMB No. 2130–0560, and OMB approval expires on January 31, 2029.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [4] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from

[2] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[3] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[4] 66 FR 28355 (May 22, 2001).

engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 222

Administrative practice and procedure, Locomotives, Railroad safety, Train horn.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 222 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 222—USE OF LOCOMOTIVE HORNS AT PUBLIC HIGHWAY–RAIL GRADE CROSSINGS

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Amend § 222.9 by revising the definition of ''non-traversable curb'' to read as follows:

§ 222.9 Definitions.

* * * * *

Non-traversable curb means a highway curb designed to discourage a motor vehicle from leaving the roadway. Non-traversable curbs are used at locations where highway speeds do not exceed 45 miles per hour and are at least six inches high. Additional design specifications are determined by the standard traffic design specifications used by the governmental entity constructing the curb.

* * * * *

■ 3. Revise appendix A to part 222 under the heading ''A. Requirements and Effectiveness Rates for Supplementary Safety Measures'' and subheading ''3. Gates With Medians or Channelization Devices'' by adding after paragraph g, the text ''*Recommended:*'' and new paragraph a, to read as follows:

Appendix A to Part 222—Approved Supplementary Safety Measures

A. Requirements and Effectiveness Rates for Supplementary Safety Measures

* * * * *

3. Gates With Medians or Channelization Devices: * * *

* * * * *

Recommended:

a. The use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls such as those recommended by organizations such as the American Association of State Highway and Transportation Officials.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08258 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[Docket No. FRA–2025–0122; Notice No. 2]

RIN 2130–AD57

Allowing for the Electronic Posting of Reportable Injuries and Occupational Illnesses

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule allows railroads to satisfy the requirement to post a listing of all injuries and occupational illnesses at an establishment electronically. This rule also removes the requirement that these postings be signed by the preparer of the listing.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Michael Wissman, Railroad Safety Specialist, Part 225, FRA, telephone: 610–314–5729, email: *michael.wissman@dot.gov;* or Michael C. Spinnicchia, Attorney Adviser, FRA, telephone: 202–713–7671, email: *michael.spinnicchia@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in 49 CFR parts 200 through 299 and updating requirements that are outdated.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed allowing railroads to satisfy the requirement to post a listing of all injuries and occupational illnesses at an establishment through electronic means. The NPRM also proposed removing some requirements of what must be included in these listings.[1]

FRA received four comments. The Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRA) (collectively, ''the associations'') submitted a joint comment in support of the NPRM. AAR and ASLRRA contended that allowing railroads to post their injuries and occupational illnesses electronically uses technological innovation to advance safety and efficiency while reducing costs for railroads. The Brotherhood of Locomotive Engineers and Trainmen (BLET), the International Association of Sheet Metal, Air, Rail, and Transportation Workers—Transportation Division (SMART–TD), and the Transportation Trades Department, AFL–CIO (TTD) (collectively, ''the labor organizations'') each submitted a comment opposing the NPRM. The labor organizations asserted that allowing electronic posting in lieu of paper posting will have an adverse safety impact as it will reduce the number of important conversations that occur due to the physical posting of workplace injuries and illnesses. The labor organizations also questioned whether it is a burden for railroads to post this information physically.

After considering comments, FRA is proceeding to revise part 225 to allow railroads to post the information required under 49 CFR 225.25(h) electronically in lieu of paper posting and to remove the requirement that these postings be signed by the preparer. However, in consideration of BLET's comment, explained in more detail below, FRA has decided to retain the requirement that these postings include the annual average number of railroad employees reporting to an establishment.

For more information, please review the Discussion of Comments and FRA's Responses and the Section-by-Section Analysis, below.

II. Discussion of Comments and FRA's Responses

A. Comment Supporting the NPRM

In their joint comment, AAR and ASLRRA stated that allowing the electronic posting of injuries and

[1] 90 FR 28648 (July 1, 2025).

occupational illnesses is preferable for various reasons.[2] First, electronic posting allows railroads to provide the same information that is currently provided through paper posting except in a portable format that is searchable and can be accessed at any time by employees. This use of technology gives railroads greater flexibility while also promoting safety and efficiency through technology, as some railroads have developed a single portal that employees can use to access injury and occupational illness data, along with other types of safety-related information, such as rule books, manuals, and guides.

The associations also support the reduction of costs that would result from electronic posting. Specifically, the associations noted that the rule would lower costs associated with purchasing and maintaining printers and supplying the printers with paper and ink. In addition, the associations mentioned that several railroads have submitted waivers requesting permission to use electronic posting in lieu of paper posting. This amendment to part 225 would eliminate the need for railroads to submit such waiver petitions approximately every five years, which would eliminate costs for both the railroads and for FRA in processing waiver petitions.

Lastly, the associations pointed to the success of the current waivers that have been in place for several years. For example, BNSF Railway Company noted its employees ran at least 655 reports in 2024, and the railroad has not received any negative feedback or complaints about its paperless injury log process. This suggests that employees are actively engaged in accessing this information electronically.

FRA's Response

The joint comment from the associations largely corroborates FRA's rationale for proposing this change. By allowing railroads to post injury and illness data electronically, FRA is permitting technological advances that allow railroads to operate more efficiently without having an adverse impact on safety. As the associations noted, electronic posting of injury and illness data is beneficial to railroad safety as it provides railroad employees with greater access to this data. This rule also eliminates the unnecessary costs associated with the antiquated requirement that this data be physically posted at work establishments.

[2] FRA–2025–0122–0005.

B. Comments Opposing the NPRM

BLET, SMART–TD, and TTD all submitted comments opposing this NPRM. TTD also endorsed the comments submitted by BLET and SMART–TD. These comments contained various arguments in opposition to the NPRM.

1. Employee Access to Injury and Illness Data

One of the labor organizations' primary concerns is that allowing railroads to post injury and illness data electronically may make this information less accessible to railroad employees. BLET stated it can be time-consuming for employees to navigate railroads' complex computer systems.[3] Further, BLET asserted that this problem is exacerbated by Precision Scheduled Railroading, as employees are often under pressure from their managers to start their assigned duties immediately, and thus, they may not have time to view this information electronically. BLET also suggested that this proposed change would not improve safety and could lead to railroads concealing important information from their employees.

SMART–TD's comment similarly asserted that the proposed rule would have a negative safety impact that degraded safety culture because it could lead to railroad employees not having reliable access to information about the hazards where they work.[4] This may inhibit the ability of employees to learn from past accidents and prevent future accidents. SMART–TD also alleged that supervisors and employees have unequal access to the data, contending that supervisors have higher system access and greater familiarity with company technology than employees. SMART–TD encouraged FRA to consult with employee representatives on ways to make this safety information more readily available and to ensure it is being discussed in job briefings.

TTD argued that requiring physical posting of injury and illness data provides necessary transparency to workers of their railroad's safety culture.[5] Because employees may work in different places within a yard or facility, the physical posting allows them to be informed of safety issues affecting various crafts, locations, or shifts. TTD also noted that employees may work multiple shifts without having the time or ability to access this injury data electronically, which means they could be unaware of existing safety concerns.

FRA's Response

Though FRA agrees that employee access to injury and illness data is important to railroad safety, FRA disagrees with the contention that allowing electronic posting to fulfill the requirement in 49 CFR 225.25(h) would limit employees' access to this information. TTD noted that railroad employees may work in different places within a yard or facility that inhibit their ability to view the posting electronically for multiple shifts. However, employees could also work multiple shifts without passing the physical posting. Thus, FRA fails to see how electronic posting would be harmful to safety. To the contrary, electronic posting provides employees with greater access to this information, as they can access injury and illness data at any time. Therefore, even if an employee does not have time to view the railroad portal during their workday, they will still have access to this information. Further, since the electronic dissemination of information is faster than physically posting such information, railroads will be better equipped to ensure the injury and illness data they are posting is accurate and up to date. This should enhance railroad safety, as it will allow employees to obtain reliable information more efficiently.

FRA is also unpersuaded by the labor organizations' contention that railroad computer systems are too complex and time-consuming for employees to navigate. Computers have been omnipresent in society for decades, and most railroad employees should have the requisite computer skills to access this injury and illness data upon receiving the instructions or training that the railroad is required to provide under section 225.25(h)(4)(i) of this final rule. For those employees who lack the requisite skills to find this information on their own, section 225.25(h)(4)(iii) requires supervisors to show an employee these postings upon request, thus ensuring employee access to this information. Therefore, even if supervisors have ''higher system access'' and ''greater familiarity with company technology,'' as SMART–TD alleges, this final rule requires railroads to ensure that all employees have access to this data.

BLET expressed concerns that adopting this final rule could lead to railroads concealing important information from their employees, but it did not provide a rationale for this concern. This final rule simply allows

[3] FRA–2025–0122–0002.

[4] FRA–2025–0122–0004.

[5] FRA–2025–0122–0003.

railroads to disseminate information in a manner that is more consistent with 21st century technological advances. Any efforts by a railroad to conceal information that it is required to post would be in violation of part 225.

Finally, in response to SMART–TD's comment that FRA should work with employee representatives on ways to make this safety information more available to railroad employees, FRA welcomes these interactions and is always interested in learning how to make the U.S. rail system safer. FRA believes that this final rule promotes rail safety by making injury and illness data more easily accessible to employees, who can review this data anywhere, at any time, as opposed to being able to view this information only at a single location within a work establishment.

2. Injury and Illness Data Promoting Important Safety Conversations Among Employees

All three labor organization comments referenced how physical postings encourage conversations among employees that promote a safer work environment. SMART–TD described these physical postings as a ''critical learning tool'' that leads to the sharing of best practices and safety hazards. Both BLET and SMART–TD argued that checking for injury and illness data electronically would not facilitate these spontaneous conversations that promote a strong safety culture and peer-to-peer accountability.

FRA's Response

FRA supports in-person conversations regarding accidents at a work establishment and agrees that such conversations are beneficial to worker safety. However, the suggestion that physical postings promote more conversations than electronic postings is not supported. None of the comments provided any data or evidence in support of this argument.

FRA notes that these conversations cannot occur without employee knowledge and awareness of these accidents. Therefore, accessibility to this information is vital to ensuring these conversations take place. FRA contends that permitting railroads to post this data electronically will increase access to this information by allowing employees to access it from various locations at any time. Electronic posting also allows employees to review employee injury data at other establishments, which provides greater awareness of on-the-job safety hazards, and can prompt additional conversations.

3. Cost Savings for Railroads

The labor organizations questioned whether the proposed rule would reduce costs for railroads. BLET asserted that posting injury data in a physical location is not a burden for railroads. SMART–TD referred to the physical posting requirement as a ''simple act of placing a sheet of paper on a crew room wall'' and that any ''miniscule cost savings'' would be outweighed by losses to worker safety. TTD noted that other Federal agencies require employers to post physical notices regarding employee rights and employer responsibilities. For example, as TTD explained, the Occupational Health and Safety Administration (OSHA) requires private employers engaged in commerce to post a physical copy of a job safety poster in their establishments. OSHA also requires many employers to post its Form 300A in a visible location, so employees are aware of injuries and illnesses that have occurred in the workplace. TTD suggested the posting of this information is important, especially for dangerous occupations such as railroading.

FRA's Response

As AAR and ASLRRA noted in their joint comment, this rule will reduce costs with respect to printing while also eliminating the need for railroads to request a waiver. These waiver petitions require time and effort on the part of the railroad submitting the petition, as well as FRA in its review of these petitions. Thus, FRA finds that this final rule will result in some cost savings.

With respect to TTD's contention that other Federal agencies still require some employers to post certain information regarding employee rights and employer responsibilities physically, FRA is not bound by other agencies' requirements. Also, the examples of physical posting TTD cited have material differences from the posting requirements in 49 CFR 225.25(h). Most notably, unlike the posting requirement in section 225.25(h), these examples do not require monthly updates on the part of the employer. The OSHA Form 300A is an annual form, so any burden associated with posting this form in a physical location only occurs once a year,[6] and posting the OSHA job safety poster is a one-time burden.[7] Therefore, maintaining the physical posting requirement in section 225.25(h) would be considerably more burdensome than the examples TTD provided.

[6] 29 CFR 1904.32.

[7] 29 CFR 1903.2.

4. FRA's Reliance on Its Waiver Experience

SMART–TD raised concerns with FRA's statement in the NPRM that the agency was unaware of any issues caused from granting waivers allowing certain Class I railroads to use electronic posting in lieu of paper posting. SMART–TD asserted that railroads are not going to volunteer information to their regulator about how waivers led to workplace injuries or fatalities. The comment also cited specific examples in support, such as CSX Transportation Inc. (CSX) not complying with its waiver conditions; requirements that SMART–TD described as ''very basic'' to meet. SMART–TD also mentioned that since the Union Pacific Railroad Company (UP) received a waiver allowing it to post injury and illness data electronically, it was found to have tampered with FRA's safety culture assessment and contends that UP unjustly punished an employee who reported an injury. In addition, UP is currently seeking a ''high-stakes merger'' which will allegedly further disincentivize the railroad from reporting to FRA any safety issues that have arisen from this waiver voluntarily.

FRA's Response

Regardless of whether railroads are likely to report safety issues that result from these waivers voluntarily, railroad employees, or the labor organizations that represent them, are not prevented from reporting any such issues. However, SMART–TD's comment provides no examples of situations where a waiver allowing electronic posting has resulted in a workplace injury or has been otherwise harmful to safety. Regarding SMART–TD's comment about the CSX waiver, the non-compliance was identified at only certain CSX establishments and CSX corrected the issue upon notification of the non-compliance.

FRA acknowledges that railroads may not report problems with electronic posting or their own non-compliance with the regulation (just as railroads may not report problems with physical postings or their own non-compliance with the existing regulation). The agency will continue to perform inspections of railroads' electronic posting systems, and if they do not meet the requirements of this final rule, FRA will take appropriate action. Based on the available evidence, FRA finds that there have been no reported instances where waivers allowing railroads to post injury and illness data electronically, in lieu of paper posting, reduced railroad

safety. If new information comes to light which suggests that allowing railroads to meet the requirements in section 225.25(h) through electronic posting reduces railroad safety, FRA may reconsider this issue.

5. Requirement That Postings Include the Average Annual Number of Employees Reporting to the Establishment

BLET disagreed with FRA's proposal in the NPRM to remove the requirement that railroads include the annual average number of railroad employees reporting to the establishment in the posting requirement under section 225.25(h). Specifically, BLET noted that this data is helpful in allowing employees to determine the frequency of accidents at their establishment and to compare this data with accident data at other establishments. For example, if 100 employees work at a particular location where there had been multiple injuries in the past 30 days, whereas another location with a similar number of employees had only had one injury during the same time period, that would give workers a better understanding of the safety conditions at their work establishment.

FRA's Response

FRA found BLET's argument compelling for why it should keep the requirement that the annual average number of railroad employees at an establishment be included in these postings. As BLET asserted in its comment, this information provides railroad employees with important context for the safety conditions where they work, including the ability to compare injury statistics at locations with similar numbers of employees. FRA did not receive any comments in support of removing this requirement. Therefore, FRA has determined to keep this requirement in the final rule.

III. Section-by-Section Analysis

Section 225.25 Recordkeeping

Except as otherwise noted below, FRA has adopted the rule text as proposed, and readers may refer to the NPRM's Section-by-Section Analysis for discussion of FRA's rationale for the revisions. FRA will revise the FRA Guide for Preparing Accident/Incident Reports in accordance with the changes to part 225 finalized in this rulemaking.

In the NPRM, FRA proposed eliminating the requirement that the postings required by paragraph (h) of this section include the annual average number of railroad employees reporting to the establishment. However, because FRA has decided to keep this requirement, FRA inserted the language as paragraph (h)(3)(ii). Proposed paragraphs (h)(3)(ii) through (xiii) in the NPRM have been renumbered in this final rule as paragraphs (h)(3)(iii) through (xiv), respectively.

IV. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. Railroads will avoid costs associated with physically printing, posting, and signing documents, including the time and expense required to do so. Employees will benefit from more convenient access to safety information. Those railroads currently submitting waiver petitions to post information electronically will avoid the costs of submitting waiver petitions, including the time and expense required to do so. The government will avoid the costs of processing and reviewing waiver requests, including the time and expense required to do so.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [8] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[9]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have total costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[10] requires Federal agencies to consider the effects of the regulatory action on small businesses and other small entities, and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency, or an appropriate designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory relief provided by this rule will result in cost savings for many regulated entities, including small entities. However, the impact to small entities is not expected to be significant. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it does not impose any new information collection requirements or modify any existing information collection requirements. Therefore, an information collection submission to OMB is not required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The existing recordkeeping and reporting requirements already contained in part 225 were approved by OMB on December 5, 2023, and the information collection requirements thereby became effective when they were approved by OMB. The OMB approval number is OMB No. 2130–0500, and OMB approval expires on December 31, 2026.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In

[8] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[9] Executive Office of the President, OMB, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20, (Mar. 26, 2025).

[10] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [11] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

[11] 66 FR 28355 (May 22, 2001).

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 225—RAILROAD ACCIDENTS/INCIDENTS: REPORTS CLASSIFICATION AND INVESTIGATIONS

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–20902, 21301, 21302, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Revise § 225.25(h) to read as follows:

§ 225.25 Recordkeeping.

* * * * *

(h) Except as provided in paragraph (h)(2) of this section, a listing of all injuries and occupational illnesses reported to FRA as having occurred at an establishment shall be posted in a conspicuous location at that establishment, within 30 days after the expiration of the month during which the injuries and illnesses occurred, if the establishment has been in continual operation for a minimum of 90 calendar days. If the establishment has not been in continual operation for a minimum of 90 calendar days, the listing of all injuries and occupational illnesses reported to FRA as having occurred at the establishment shall be posted, within 30 days after the expiration of the month during which the injuries and illnesses occurred, in a conspicuous location at the next higher organizational level establishment, such as one of the following: an operating division headquarters; a major classification yard or terminal headquarters; a major equipment maintenance or repair installation, *e.g.,* a locomotive or rail car repair or construction facility; a railroad signal and maintenance-of-way division headquarters; or a central location where track or signal maintenance employees are assigned as a headquarters or receive work assignments. These examples include facilities that are generally major facilities of a permanent nature where the railroad generally posts or disseminates company informational notices and policies, *e.g.,* the policy statement in the internal control plan required by § 225.33 concerning harassment and intimidation. At a minimum, ''establishment'' posting is required and shall include locations where a railroad reasonably expects its employees to report during a 12-month period and to have the opportunity to observe the posted list containing any reportable injuries or illnesses they have suffered during the applicable period.

(1) This listing shall be posted and shall remain continuously displayed for the next 12 consecutive months. Incidents reported for employees at that establishment shall be displayed in date sequence.

(2) Railroads do not have to post information on an occupational injury or illness that is a privacy concern case.

(3) The listing shall contain all of the following information:

(i) Name and address of the establishment.

(ii) Annual average number of railroad employees reporting to the establishment.

(iii) Calendar year of the cases being displayed.

(iv) Incident number used to report case.

(v) Date of the injury or illness.

(vi) Location of incident.

(vii) Regular job title of employee injured or ill.

(viii) Description of the injury or condition.

(ix) Number of days employee was absent from work at time of posting.

(x) Number of days of work restriction for employee at time of posting.

(xi) If the employee died, include the date of death.

(xii) The preparer's name, title, and telephone number (including the area code).

(xiii) The date the record was completed.

(xiv) When there are no reportable injuries or occupational illnesses associated with an establishment for a month, the listing shall reference this fact.

(4) A railroad may maintain the posting required under this paragraph (h) in electronic format if:

(i) Employees are provided instructions or training on how properly to access the electronic posting;

(ii) There is a device at the facility which employees may use to access the posting or employees are issued a device that can access the posting; and

(iii) Supervisors at the establishment can show the posting to employees or an FRA representative upon request.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08255 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 237

[Docket No. FRA–2025–0129; Notice No. 2]

RIN 2130–AD28

Repealing Certain Bridge Load Capacity Evaluation Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule eliminates the Federal requirement that defines the process a track owner must follow when scheduling the evaluation of bridges with no load capacity determination. The requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective and is no longer necessary because the regulations have been in effect for almost 15 years and the transitional period for compliance has ended.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, FRA Track & Structures Division, FRA, telephone: (202) 570–1508, email: *Yujiang.Zhang@dot.gov;* or Aaron Moore, Senior Attorney, FRA, telephone: (202) 853–4784, email: *Aaron.Moore@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed the elimination of the Federal requirement in 49 CFR part 237, Bridge Safety Standards, that defines the process a track owner must follow when scheduling the evaluation of bridges with no load capacity determination.[1] This requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective. The restrictions on the track owner's discretion to determine the process for evaluation of bridge load capacity are no longer necessary because the regulations have been in effect for almost 15 years and the transitional period for compliance has ended.

FRA received three comments in response to the NPRM. A private citizen expressed concern about the degradation of American infrastructure, including failing bridges, and opposes this rule because the citizen asserted it may lead to bridge failure. The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters (BMWED) and Transportation Trades Department, AFL–CIO (TTD) both submitted comments in support of this proposal. Though they recognized differences in operational and structural characteristics of railroad bridges and public highway bridges, BMWED and TTD encouraged the increased alignment of part 237 with bridge inspection and evaluation practices employed by the Federal Highway Administration, citing the incorporation of standardized inspection intervals, load rating protocols, and common protocols as potential areas for alignment. In addition, BMWED and TTD recommended a structured review of part 237 involving industry, labor, and government representatives through the Railroad Safety Advisory Committee (RSAC).

The commenters and FRA have the same goal, which is to support rail bridge infrastructure and to make sure that it can safely handle the weight of trains operating over bridges. This rule does not impact FRA's regulatory oversight over bridge load capacity requirements, but rather it removes an obsolete provision from the CFR. Specifically, the requirement to be repealed in 49 CFR 237.71 requires an initial determination of load capacity that must be completed within five years of the required date for adoption of the track owner's bridge management program (BMP). See section 237.71(e).

In this final rule, FRA is revising section 237.71 as proposed. As acknowledged by BMWED and TTD, this requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective and more than five years had elapsed from the required BMP adoption dates in section 237.31. All other bridge load capacity requirements in this section remain unchanged, including the requirement that each track owner must determine the load capacity of each of its railroad bridges as documented in the track owner's BMP using appropriate engineering methods and standards. In addition, FRA welcomes BMWED's and TTD's ideas about bridge load capacity regulation for other transportation modes and also agrees that RSAC may be the appropriate forum for the agency's various stakeholders to exchange information relating to the safety of rail operations.

II. Section-by-Section Analysis

Section 237.71 Determination of Bridge Load Capacities

This final rule removes the requirement in paragraph (e) that defines the process a track owner must follow when scheduling the evaluation of bridges with no load capacity determination. The existing requirement imposes a restriction on a track owner's ability to establish a BMP and evaluate bridge load capacity as the track owner sees fit. The existing regulation requires an initial determination of load capacity to be completed within five years of the required date for adoption of a BMP under section 237.31. Under the existing regulation, a period of more than five years has elapsed from the required adoption dates in section 237.31. This requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective. Removing this regulatory text removes an obsolete provision from the CFR, improving readability of this CFR part.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR

[1] 90 FR 28669 (July 1, 2025).

51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This final rule removes obsolete requirements, and therefore it imposes no additional burdens on regulated entities. Moreover, implementing this rule will provide benefits, improving readability of this CFR part.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [2] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[3]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' FRA determined that issuing this final rule is expected to have total costs less than zero, and therefore this final rule is considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[4] requires Federal agencies to consider the effects of the regulatory action on small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* encompasses small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

A regulatory flexibility analysis is not required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule would not preclude small entities from continuing practices that comply with part 237 as amended; it merely removes obsolete provisions from the CFR and improves readability. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it contains no new information collection requirements, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* and therefore, an information collection submission to OMB is not required. OMB approved the existing recordkeeping and reporting requirements contained in part 237 on April 1, 2026. The OMB control number is 2130–0586, and OMB approval expires on April 30, 2029.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [5] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 237

Bridges, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 237 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

[2] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[3] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[4] Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

[5] 66 FR 28355 (May 22, 2001).

PART 237—BRIDGE SAFETY STANDARDS

■ 1. The authority citation for part 237 continues to read as follows:

Authority: 49 U.S.C. 20102–20114; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Amend § 237.71 by removing paragraph (e) and redesignating paragraphs (f) through (h) as paragraphs (e) through (g) to read as follows:

§ 237.71 Determination of bridge load capacities.

* * * * *

(e) Where a bridge inspection reveals that, in the determination of the railroad bridge engineer, the condition of a bridge or a bridge component might adversely affect the ability of the bridge to carry the traffic being operated, a new capacity shall be determined.

(f) Bridge load capacity may be expressed in terms of numerical values related to a standard system of bridge loads, but shall in any case be stated in terms of weight and length of individual or combined cars and locomotives, for the use of transportation personnel.

(g) Bridge load capacity may be expressed in terms of both normal and maximum load conditions. Operation of equipment that produces forces greater than the normal capacity shall be subject to any restrictions or conditions that may be prescribed by a railroad bridge engineer.

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08254 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

[Docket No. FRA–2025–0132; Notice No. 2]

RIN 2130–AD60

Qualification and Certification of Locomotive Engineers

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule updates FRA's locomotive engineer certification requirements to reduce the information required on a locomotive engineer's certificate, and allowing certificates to be electronic. This rule also changes the certification revocation process and the Administrative Hearing Officer (AHO) process. Lastly, this rule makes administrative updates, including revising definitions and correcting errors in the regulatory text.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Christian Holt, Staff Director—Operating Practices Division, FRA, telephone: 202–366–0978, email: *christian.holt@dot.gov;* or Michael C. Spinnicchia, Attorney Adviser, FRA, telephone: 202–713–7671, email: *michael.spinnicchia@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and revising requirements to reduce unnecessary regulatory burdens without compromising transportation safety.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed various changes to 49 CFR part 240 (part 240).[1] Specifically, the NPRM proposed: (1) reducing the information required on an engineer's certificate and allowing certificates to be electronic; (2) requiring railroads to include findings of fact in support of their certification revocation decisions; (3) changing the administrative hearing process so railroads always carry the burden of proof; and (4) making miscellaneous administrative updates to part 240. FRA also requested comments on whether to remove the requirement that FRA is a mandatory party in the administrative hearing process.

FRA received three comments. The Brotherhood of Locomotive Engineers and Trainmen (BLET), the International Association of Sheet Metal, Air, Rail, and Transportation Workers—Transportation Division (SMART–TD), and the Transportation Trades Department, AFL–CIO (TTD) (collectively, ''the labor organizations'') each submitted a comment supporting some of the changes proposed in the NPRM and opposing other changes. The labor organizations generally supported FRA's proposal to require railroads to provide findings of fact when issuing their revocation decisions and placing the burden of proof on railroads during administrative hearings. However, they opposed allowing railroads to use electronic certificates exclusively and removing FRA as a mandatory party to administrative hearings.

In response to this feedback, FRA is proceeding with the changes it proposed in the NPRM. In addition, FRA has decided to amend 49 CFR 240.409(p) and (r) to remove FRA as a mandatory party in the administrative hearing process described in section 240.409, and instead, provides FRA the option of participating.

II. Section-by-Section Analysis

Except as otherwise noted below, FRA has adopted the rule text as proposed, and readers may refer to the NPRM's Section-by-Section Analysis for extensive discussion of FRA's rationale for the revisions.

Section 240.7 Definitions

FRA proposed revising the definition of ''Serve or service'' in this section to have the meaning given in 49 CFR 209.5. BLET opposed this change, asserting that it would require service of documents to be done by registered or certified mail which would increase the burden of this rule.[2] However, on July 1, 2025, FRA issued an NPRM[3] proposing to revise section 209.5 to allow for electronic service, an action FRA finalized on April 24, 2026. This should alleviate BLET's concern, as parties will not have to use registered or certified mail to serve documents under this part.

Section 240.11 Penalties and Consequences for Noncompliance

FRA's proposed revisions to this section included replacing references to specific penalty amounts with a reference to 49 CFR part 209, appendix A. BLET commented that this revision is not problematic if the actual penalty amounts are readily available and easy to locate. As this information is clearly stated in 49 CFR part 209, appendix A, FRA concludes that BLET does not oppose this proposed revision, and FRA is amending section 240.11, as proposed, with some minor formatting edits.

Section 240.103 Approval of Design of Individual Railroad Programs by FRA

FRA proposed a technical correction to this section, as it contained inaccurate cross-references. BLET noted

[1] 90 FR 28672 (July 1, 2025).

[2] FRA–2025–0132–0003.

[3] 90 FR 28612 (July 1, 2025).

its support for making this correction. FRA amends § 240.103, as proposed.

Section 240.217 Time Limitations for Making Determinations

FRA proposed amending paragraph (a)(3) of this section to correct a previous drafting error. BLET agreed with this proposed change, noting that it clarifies ambiguity in the regulation. SMART–TD also wrote in support of this change, stating that this clarification prevents unnecessary and duplicative testing that wastes railroad and worker resources.[4] Therefore, FRA amends section 240.217, as proposed.

Section 240.223 Criteria for the Certificate

This section details what information must be included on a locomotive engineer's certificate. FRA proposed removing the requirement found in paragraph (a)(3) of this section that these certificates include the engineer's year of birth. FRA received support from the labor organizations on this proposed change. BLET agreed that the year of birth has little value in confirming an individual's identity and removing this requirement could protect the release of an engineer's identity following a grade-crossing accident. SMART–TD described this change as ''a positive step for privacy and data protection,'' as putting the year of birth on a certificate needlessly exposes engineers to identity theft. Based on these positive comments, FRA is proceeding with removing the year of birth requirement from engineer certificates.

FRA also proposed amending paragraph (a)(8) of this section to allow certificates to be electronic. In response, BLET stated paper licenses should not be eliminated, as paper licenses allow engineers to provide their identification quickly upon request from railroad officers, inspectors, and police officers. Instead, BLET suggested that engineers should have a paper certificate with an electronic version as a backup, as this would align with other forms of electronic recordkeeping and would provide engineers with multiple ways to comply with the requirement that they possess their certificate while on duty.

SMART–TD and TTD[5] similarly advocated for engineers to have both electronic and paper certificates. Both organizations acknowledged that electronic certificates could reduce administrative delays by preventing lost or damaged certificates. However, they expressed concern that not all engineers have equal access to digital devices or reliable connectivity. If the railroad only provides electronic certificates, certain engineers could be at a disadvantage or face discipline for circumstances beyond their control. SMART–TD added that if a system outage, cyberattack, or tracking capability linked an engineer's credentials to a specific train or assignment, that could create operational vulnerabilities and personal security risks.

In response to the labor organizations' concerns, FRA first clarifies that its proposed revision to paragraph (a)(8) does not prohibit the use of paper certificates. It simply gives railroads the option of issuing paper certificates, electronic certificates, or both. Despite the arguments from the labor organizations, FRA does not find a need to mandate that railroads issue both paper and electronic certificates. If an engineer does not have a railroad-issued electronic device, the railroad will need to ensure that he or she has a physical copy of their certificate to comply with 49 CFR 240.305(b), which requires engineers to have their certificate in their possession while on duty. For engineers that have a railroad-issued electronic device, they can still print a paper copy of their certificate if they desire. They can also save a copy of their certificate to their device, which would protect against any connectivity concerns.

With respect to SMART–TD's concerns that electronic certificates could create operational vulnerabilities or personal security risks, the purpose of the certificate, whether paper or electronic, is to document certification status under part 240. It does not contain or link to operational data such as train numbers or assignments. Any such information resides within a railroad's internal crew management system, which is separate from certification records. FRA's change to allow electronic certificates is intended only to provide administrative flexibility and does not create any new vulnerabilities or tracking mechanisms.

In summary, FRA has determined to allow, but not require, railroads to issue certificates electronically. This will provide railroads with greater flexibility while decreasing the likelihood of certificates getting lost or damaged and having to be replaced.

Section 240.307 Revocation of Certification

FRA proposed clarifying in this section that railroad revocation decisions must contain findings of fact, and the basis for those findings, regardless of what is required under the applicable collective bargaining agreement (CBA). All three labor organizations wrote in support of this change, stating that it would provide transparency, ensure due process, and allow engineers to understand the reasoning behind the railroad's decision. SMART–TD and TTD requested that FRA establish timelines for railroads to produce these findings of fact, as delays in the revocation process can cause significant harm to engineers. They also requested that FRA adopt enforceable penalties to ensure compliance with this requirement.

Findings of fact must be included in a railroad's revocation decision. Railroads with applicable CBAs must comply with any timelines in those agreements for issuing such decisions. FRA declines to override the timelines established in those agreements, especially since the applicable labor organization has already agreed to those terms. When there is no applicable CBA, paragraph (c)(10) of this section requires that a railroad's revocation decision, containing findings of fact, be prepared and signed no later than 10 days after the close of the record. Therefore, the requested timelines have already been established, and FRA does not need to make further changes to this section beyond what was proposed in the NPRM.

For railroads that fail to comply with this revised section by not providing engineers with adequate findings of fact, FRA may exercise its enforcement authority pursuant to 49 CFR part 209. In addition, any alleged occurrence of a railroad's non-compliance with this section may be reported to FRA for further investigation.

Section 240.409 Hearings

All three labor organizations that commented on this NPRM supported FRA's proposed change to paragraph (q) of this section making the railroad the ''hearing petitioner'' in the administrative hearing regardless of who the prevailing party was at the Operating Crew Review Board (OCRB). SMART–TD noted it was fundamentally unfair to require an engineer to prove their innocence against a corporation with substantial resources. Though SMART–TD and TTD support this change, they expressed concern that it could lead railroads to retaliate against engineers by using the certification process as a disciplinary weapon. Both organizations asked FRA to guard against, and to penalize, railroads that act in bad faith and attempt to revoke certifications illegitimately for retaliatory purposes.

FRA finds that SMART–TD and TTD may be overstating the likelihood that

[4] FRA–2025–0132–0002.

[5] FRA–2025–0132–0004.

the revision to paragraph (q) will lead to railroads taking retaliatory action. Over the last several years, an administrative hearing has been requested in fewer than one percent of all engineer certification revocations. Thus, this change will have no effect on most cases where an engineer's certification is revoked. Therefore, FRA is unclear why this change would motivate railroads to retaliate against engineers. However, if such retaliation occurs, FRA encourages that it be reported for further investigation.

Existing paragraph (r) of this section states that FRA is a mandatory party to the administrative hearing and will be a respondent at the start of the hearing. FRA requested comments on whether this paragraph should be removed in its entirety, to no longer require the agency to be a mandatory party. The labor organizations strongly opposed removing the requirement that FRA be a mandatory party. BLET commented that FRA ''is uniquely qualified to offer important insight and information to the AHO.'' [6] SMART–TD and TTD argued that FRA serves as an independent check on railroad overreach, and if FRA were to step back from this role, administrative hearings would become railroad-dominated proceedings and engineers would be significantly disadvantaged. They implored FRA to remain fully engaged in these certification disputes to preserve fairness and legitimacy.

The labor organizations' comments appear to be imputing the responsibilities of the AHO onto FRA. It is the AHO (or presiding officer), not FRA, who ensures a fair hearing.[7] Also, their comments presume that FRA would always be aligned with the engineer or engineer candidate in these disputes. However, in some cases, FRA would be aligned with the railroad, which presumably would work to the railroad's benefit and the engineer or engineer candidate's disadvantage.

FRA acknowledges that in some cases, it may be able to provide important insights, which is why, after consideration of these comments, FRA has decided that instead of requiring FRA to be a party in these proceedings, it will revise this section to state that FRA *may* be a party to the administrative hearing. This preserves the agency's ability to participate in disputes where it believes it has important insights to provide. FRA may also decide to participate in cases where it thinks its participation will prevent an injustice from occurring. However, this also gives FRA flexibility not to participate in matters where FRA's participation would be unnecessary, waste agency resources, or not serve the agency's best interests. This change will allow FRA to maximize its allocation of resources, while also participating in matters of significant importance to the agency. Therefore, FRA is revising paragraph (p) to state that FRA *may* be a party at the hearing. As there is no need to repeat this statement in paragraph (r), FRA is also removing existing paragraph (r) and redesignating paragraphs (s) through (u) as paragraphs (r) through (t).

BLET also requested that FRA add language to existing paragraph (r) stating that FRA would be the petitioner or respondent depending on which party lost before the OCRB. BLET's rationale is that without this added language, FRA could choose to align with a railroad even though the railroad lost before the OCRB, which BLET claims would be unjust. FRA finds that adding this language is unnecessary, especially because FRA is no longer a mandatory party to the administrative hearing. If FRA decides to participate in an administrative hearing, it will most likely align with the prevailing party before the OCRB. However, if facts or circumstances have changed FRA's stance on a case, the agency should have the flexibility to align with either party. Therefore, FRA is not adopting BLET's proposed change.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. FRA makes several clarifications in this final rule, such as the definition of ''serve or service,'' references to penalty amounts, and technical corrections to eliminate confusion in the regulations. The clarifications to section 240.217 help prevent unnecessary duplicative knowledge examinations, saving railroads and workers the time and expense required to perform such exams. The revisions to section 240.223 on locomotive engineer's certificates will provide railroads with greater flexibility and will reduce the time and resources spent replacing lost or damaged certificates. These revisions will also have the qualitative benefit of enhancing privacy and data protection for workers. The revisions to section 240.307 on revocation decisions will impose a small cost by requiring some railroads to provide information that they do not currently provide. However, these revisions will also provide qualitative benefits to workers, including enhanced transparency, fairness, and understanding. Finally, the revisions to § 240.409 on hearings will offer the Government greater flexibility and will save government resources by no longer requiring mandatory FRA participation in hearings. These revisions will also have the qualitative benefit of increased fairness for workers by making the railroad the petitioner in all hearings. Overall, FRA finds that this rule will result in net costs less than zero.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [8] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[9]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have net costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement

[6] FRA–2025–0132–0003.

[7] *See, e.g.,* 49 CFR 240.409(b) (''The presiding officer may exercise the powers of the Administrator to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy.''); 49 CFR 240.409(d) (''The presiding officer may authorize discovery of the types and quantities which in the presiding officer's discretion will contribute to a fair hearing without unduly burdening the parties.'').

[8] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[9] Executive Office of the President, OMB, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

Fairness Act of 1996,[10] requires Federal agencies to consider the effects of the regulatory action on small businesses and other small entities, and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency, or an appropriate designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory relief provided by this rule will result in cost savings for many regulated entities, including small entities. However, the impact to small entities is not expected to be significant. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and there is no new information collection requirement, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements already contained in part 240 became effective when they were approved by OMB on July 12, 2024. The OMB approval number is 2130–0533, which expires on July 31, 2027.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [11] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 240

Administrative practice and procedure, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 240 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

■ 1. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. In § 240.7, revise the definitions of ''File, filed and filing'' and ''Serve or service'' to read as follows:

§ 240.7 Definitions.

* * * * *

File, filed, and filing mean submission of a document under this part on the date when the DOT Docket Clerk or FRA receives it, or if served as that term is defined under 49 CFR 209.5, the date of service.

* * * * *

Serve or service, in the context of serving documents, has the meaning given in 49 CFR 209.5. The computation of time provisions in Rule 6 of the Federal Rules of Civil Procedure as amended are also applicable in this part. *See also* the definition of ''file, filed, and filing'' in this section.

* * * * *

■ 3. In 240.11, revise paragraph (a) to read as follows:

§ 240.11 Penalties and consequences for noncompliance.

(a) A person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary

[10] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[11] 66 FR 28355 (May 22, 2001).

penalty per violation may be assessed, where a grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons, or a death or injury has occurred. See 49 CFR part 209, appendix A. Each day a violation continues shall constitute a separate offense. See FRA's website at *https://railroads.dot.gov/* for a statement of agency civil penalty policy.

* * * * *

■ 4. In § 240.103, revise paragraphs (b)(1) and (2) and (c) introductory text to read as follows:

§ 240.103 Approval of Design of Individual Railroad Programs by FRA.

* * * * *

(b) * * *

(1) Simultaneous with its filing with FRA, provide a copy of the submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (g) of this section, or a material modification filed pursuant to paragraph (h) of this section to the president of each labor organization that represents the railroad's employees subject to this part; and

(2) Include in its submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (g) of this section, or a material modification filed pursuant to paragraph (h) of this section a statement affirming that the railroad has provided a copy to the president of each labor organization that represents the railroad's employees subject to this part, together with a list of the names and addresses of persons provided a copy.

(c) Not later than 45 days from the date of filing a submission pursuant to paragraph (a) of this section, a resubmission pursuant to paragraph (g) of this section, or a material modification pursuant to paragraph (h) of this section, any designated representative of railroad employees subject to this part may comment on the submission, resubmission, or material modification.

* * * * *

■ 5. In § 240.217, revise paragraph (a)(3) to read as follows:

§ 240.217 Time Limitations for Making Determinations.

(a) * * *

(3) Demonstrated knowledge and the knowledge examination being relied on was conducted more than 366 days before the date of the railroad's certification decision except as provided for in paragraph (a)(4) of this section;

* * * * *

■ 6. In § 240.223, revise paragraphs (a)(3) and (8) to read as follows:

§ 240.223 Criteria for the Certificate.

(a) * * *

(3) Identify the person to whom it is being issued (including the person's name, employee identification number, and either a physical description or photograph of the person);

* * * * *

(8) Be electronic or be of sufficiently small size to permit being carried in an ordinary pocket wallet.

* * * * *

■ 7. In § 240.307, revise paragraph (d) to read as follows:

§ 240.307 Revocation of Certification.

* * * * *

(d) A hearing required by this section which is conducted in a manner that conforms procedurally to the applicable collective bargaining agreement shall be deemed to satisfy the procedural requirements of this section except that the railroad's decision must comply with the requirements in paragraph (c)(11) of this section.

* * * * *

■ 8. In § 240.409:

■ a. Revise paragraphs (p) and (q).

■ b. Remove paragraph (r); and

■ c. Redesignate paragraphs (s) through (u) as paragraphs (r) through (t).

The revisions read as follows:

§ 240.409 Hearings.

* * * * *

(p) The petitioner before the Operating Crew Review Board and the railroad involved in taking the certification action shall be parties at the hearing. FRA may also be a party at the hearing. All parties may participate in the hearing and may appear and be heard on their own behalf or through designated representatives. All parties may offer relevant evidence, including testimony, and may conduct such cross-examination of witnesses as may be required to make a record of the relevant facts.

(q) Regardless of the prevailing party before the Operating Crew Review Board, the railroad involved in taking the certification action shall be the ''hearing petitioner'' and shall have the burden of proving its case by a preponderance of the evidence. The impacted locomotive engineer or locomotive engineer candidate shall be the ''hearing respondent.''

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Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08257 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 240 and 242

[Docket No. FRA–2025–0131; Notice No. 2]

RIN 2130–AD32

Qualification and Certification of Locomotive Engineers and Conductors: Incorporation of Longstanding C³RS Waivers

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule amends FRA regulations governing the qualification and certification of locomotive engineers and conductors, to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored Confidential Close Call Reporting System (C³RS).

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Mike Long, Director of Railroad Operations and Outreach, FRA, telephone: (202) 770–8203, email: *Mike.Long@dot.gov;* or Elizabeth A. Gross, Attorney Adviser, FRA, telephone: (202) 253–6281, email: *Elizabeth.Gross@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in 49 CFR parts 200 through 299 and updating requirements to reduce unnecessary burdens without compromising transportation safety.

The requirements for FRA-regulated entities to establish programs for certifying the qualifications of locomotive engineers and conductors are established in 49 CFR part 240, Qualification and Certification of

Locomotive Engineers, and part 242, Qualification and Certification of Conductors, respectively. On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to amend parts 240 and 242 to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C[3]RS program. *See* 90 FR 28676–28684. Interested persons can read more about the history of C[3]RS and the waiver process in the NPRM preamble. *Id.* at 28676–28677.

II. Discussion of Comments Received on the NPRM and FRA's Response

FRA received five comments on the NPRM. Four of the comments were received from the following non-profit employee labor organizations: (1) the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (BLET);[1] (2) the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters (BMWED–IBT);[2] (3) the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART–TD);[3] and (4) the Transportation Trades Department, AFL–CIO (TTD).[4] One comment was received from the New York State Metropolitan Transportation Authority (MTA).[5]

All comments expressed general support for C[3]RS and FRA's goal of implementing the program nationwide but also raised some concerns. After thoroughly considering the comments, FRA has decided to finalize the rule as proposed, except for minor clarifying revisions to the definitions of ''C[3]RS Implementing Memorandum of Understanding (C[3]RS IMOU),'' ''Close call,'' and ''Peer Review Team (PRT).''

A. Concerns Regarding Labor Organization Exclusion

All labor organization commenters expressed concerns that the NPRM contemplated implementing C[3]RS programs through an Implementing Memorandum of Understanding (IMOU) that had only been signed by FRA and the participating railroad, in certain circumstances. These comments focused primarily on FRA's proposed definition for ''C[3]RS Implementing Memorandum of Understanding (C[3]RS IMOU),'' which stated, in part, that if participating employees are not represented by a non-profit employee labor organization, or if a non-profit employee labor organization representing employees covered by a C[3]RS IMOU is not a stakeholder to the program, a C[3]RS IMOU may be signed only by FRA and the participating railroad. The labor organizations generally asserted that excluding labor organizations as a stakeholder to a C[3]RS IMOU would undermine employees' trust in the program and result in fewer close calls being reported. TTD also specifically asserted that employees would not feel comfortable reporting if a Peer Review Team (PRT) did not have labor representatives. Overall, these comments asked FRA to issue a final rule that requires labor organizations to be signatory stakeholders to a C[3]RS IMOU.

FRA agrees that having labor organization stakeholders strengthens C[3]RS and promotes employee trust in the program. FRA has expended significant time and resources in promoting labor organization participation in C[3]RS and will continue to do so. However, for the following reasons, FRA is declining to require that a C[3]RS IMOU be signed by a labor organization stakeholder. To reflect the important stakeholder role that labor organizations play in C[3]RS overall, and as discussed in the Section-by-Section Analysis below, FRA is replacing language in the proposed definition about a labor organization not being a stakeholder to a particular C[3]RS IMOU with language about a labor organization not being a signatory party. FRA is otherwise finalizing the definition of ''C[3]RS Implementing Memorandum of Understanding (C[3]RS IMOU)'' as proposed.

First, requiring each C[3]RS IMOU to be signed by a labor organization representative could exclude non-represented employees from the program, including non-represented employees who are currently covered through C[3]RS programs that have been implemented on railroads where some or all employees are not represented by a labor organization.[6] In these cases, some C[3]RS IMOUs have been signed by an employee of the covered craft,[7] while others have been signed by only FRA and the railroad.[8] Except for railroads that have joined C[3]RS through the Short Line Safety Institute (SLSI),[9] these C[3]RS IMOUs also provide that the railroad will appoint employees to participate in the PRT, which ensures that an employee's perspective is heard when the PRT reviews and analyzes reports.[10] The success of these C[3]RS programs shows that the program can be implemented without a signatory labor organization representative, and railroads should not be excluded from the railroad safety benefits of C[3]RS simply because they have non-represented employees. Further, except for railroads that join C[3]RS through the SLSI, FRA does not intend to sign a C[3]RS IMOU that does not provide for employee participation in the PRT, regardless of whether the participating employees are represented by a labor organization that has signed the C[3]RS IMOU. To reflect the importance of employee participation in a PRT, and as discussed further in the Section-by-Section Analysis below, FRA is adding language to the definition of ''Peer Review Team (PRT)'' noting that a PRT can include employees who are not represented by a labor organization that has signed the C[3]RS IMOU (as well as other types of representatives).

In addition, there is currently no requirement for C[3]RS to be implemented through an IMOU signed by a labor organization representative, and establishing one when none has existed is unnecessary and could hinder

[1] Docket No. FRA–2025–0131–0005.

[2] Docket No. FRA–2025–0131–0002.

[3] Docket No. FRA–2025–0131–0004.

[4] FRA–2025–0131–0006. TTD's comment indicates it consists of 39 affiliated unions who represent members across the freight rail industry, and TTD included a list of member labor organizations represented by TTD as part of its comment.

[5] Docket No. FRA–2025–0131–0003.

[6] FRA has posted signed C[3]RS IMOUs on its website at *https://railroads.dot.gov/railroad-safety/divisions/safety-partnerships/c3rs/participating-railroads* (last accessed Apr. 20, 2026).

[7] For example, the C[3]RS IMOU for the Buffalo & Pittsburgh Railroad covers non-represented car department employees (in addition to represented crafts), and the IMOU is signed by the Lead Carman. *See https://railroads.dot.gov/elibrary/buffalo-and-pittsburgh-c3rs-imou* (last accessed Apr. 20, 2026). Similarly, the C[3]RS IMOU covering non-represented employees for the Strasburg Rail Road Company is signed by multiple PRT members. *See https://railroads.dot.gov/elibrary/strasburg-imou* (last accessed Apr. 20, 2026).

[8] For example, the C[3]RS IMOU for Denton County Transportation Authority/Rio Grande Pacific Transit Group/Stadler is signed exclusively by FRA and management representatives from the participating railroad and contract operators. *See https://railroads.dot.gov/elibrary/dcta-train-c3rs-imou* (last accessed Apr. 20, 2026).

[9] SLSI is a non-profit corporation that conducts safety culture assessments and is an education and training source for short line and regional railroads concerning safety culture. *See https://www.shortlinesafety.org/.* Railroads that have joined C[3]RS through SLSI include the D&I Railroad Company (*https://railroads.dot.gov/elibrary/di-railroad-c3rs-imou*); the Delaware Lackawanna Railroad (*https://railroads.dot.gov/elibrary/delaware-lackawanna-railroad-c3rs-imou*); the Goose Lake Railway, LLC (*https://railroads.dot.gov/elibrary/c3rs-implementing-memorandum-understanding-goose-lake-railway*); and St. Mary's Railway West (*https://railroads.dot.gov/elibrary/st-marys-railway-west-c3rs-imou*).

[10] For railroads participating in C[3]RS through the SLSI, the SLSI PRT is comprised of a group of SLSI representatives.

the further expansion of C³RS. While FRA always strives to get consensus from all potential parties to a C³RS IMOU, even a C³RS IMOU without a labor organization as a signatory party still provides employees an opportunity to report close calls confidentially to an independent third party and to receive protection from discipline and revocation of certification for accepted reports that did not exist before.

B. BLET Comment Regarding the Railroad Safety Advisory Committee Process

Related to concerns about labor organization exclusion, BLET commented that it believes a C³RS IMOU that has been agreed upon by all stakeholders could be reached through the Railroad Safety Advisory Committee (RSAC) process, requesting that FRA hold the NPRM as a proposal until all involved stakeholders could agree upon such an IMOU. FRA understands BLET's comment to be referencing RSAC Task No. 2022–03: Confidential Close Call Reporting System, which had involved a series of C³RS Working Group meetings. As explained in the NPRM, FRA withdrew Task No. 2022–03 from the RSAC in March 2025, in part to begin a rulemaking that would propose amending parts 240 and 242 to remove the need for C³RS waivers. BLET also commented that the ongoing reconstitution of the RSAC would set back progress made by the C³RS Working Group.

FRA is declining BLET's suggestion to wait to finalize this rulemaking until there is a standard C³RS IMOU agreed upon by all stakeholders. FRA appreciates BLET's support for RSAC and agrees that RSAC may be the appropriate forum for the agency's various stakeholders to exchange information relating to the safety of rail operations. However, FRA does not believe it should delay finalizing this rulemaking until a standard C³RS IMOU is agreed upon, whether through the RSAC process or otherwise. As explained in the NPRM, after a series of RSAC C³RS Working Group meetings, it became apparent that stakeholders generally agreed that FRA should engage in a rulemaking that would streamline C³RS participation by relieving railroads of the burden associated with submitting waivers and recurrent waiver extension requests. *See* 90 FR 28677. Even if no additional railroads join C³RS, whether in accordance with a standard C³RS IMOU template or not, FRA believes streamlining the process to participate in C³RS is a meaningful burden reduction, both for FRA and the current participants. While BLET also questions whether granting C³RS waivers should be a *pro forma* exercise, FRA notes that no railroad request for a C³RS waiver has ever been denied. Further, FRA notes that though it publishes a **Federal Register** notice providing an opportunity for public comment on all C³RS waiver petitions, few comments expressing blanket opposition to a C³RS waiver have been received on any of the dozens of waiver and waiver extension requests FRA has granted (though some comments have expressed concerns about various specific aspects of the program or advocated for greater communication between railroad and labor organization parties to the program).[11] FRA also notes that BLET, SMART–TD, and TTD all commented in support of FRA granting a C³RS waiver submitted by the Association of American Railroads (AAR) on behalf of Class I freight railroads (though SMART–TD and TTD also urged FRA to ensure that the Class I railroads joined C³RS in accordance with standards contained in C³RS IMOUs for current participants).[12]

Further, while BLET is concerned that the reconstitution of the RSAC will hinder the C³RS Working Group's progress, FRA notes that it had disbanded the Working Group in March 2025, after concluding that further meetings were not likely to produce meaningful results. This was several months before the RSAC reconstitution process began in August 2025, meaning that the reconstitution will have no additional effect on the C³RS Working Group.

C. MTA Comment Requesting Clarity on C³RS Report Acceptance

MTA commented that while it generally supports incorporating waivers to streamline the ongoing operation of C³RS, it thought the final rule should clarify that the PRT plays no role in determining whether a C³RS report is accepted, as that decision is made by the independent third party alone. Specifically, MTA suggested revising the proposed definition of ''Close call'' to remove the reference to PRT acceptance and to make conforming changes throughout the proposed rule to remove references to the PRT accepting a report.

FRA understands MTA's concern, as there are different understandings of what it means for a close call to be accepted among current C³RS stakeholders. The purpose of the proposed definition was to reflect that a PRT's review and analysis of a reported close call may uncover information that was not reported to the independent third party that makes the close call ineligible for the C³RS IMOU's protections against suspension or revocation of certification. For example, a PRT may discover that even though the current independent third party, the National Aeronautics and Space Administration (NASA), accepted a close call, the underlying event was not eligible for the C³RS IMOU's protections because it was visually observed by a railroad manager in real-time.[13] FRA emphasizes that it is unusual for a PRT to determine that an event reported to and accepted by NASA is not eligible for a C³RS IMOU's protections, but it does happen occasionally. Further, because PRTs have an FRA representative, any such determination is made with FRA's advice and assistance, in addition to being a consensus decision made by all PRT stakeholders (including labor organization representatives).

The proposed definition of ''Close call'' also prevents an employee from receiving C³RS protections in the (highly unlikely) situation that the employee deliberately withheld information from the report that would indicate the underlying event was not a reportable close call (such as information indicating the event involved prohibited use of alcohol or a controlled substance or a willful violation of Federal railroad safety laws of railroad operating rules). To prevent such bad faith misuse of C³RS, FRA believes it is important to allow a PRT, when it has access to additional information that was not available to the independent third party, to determine that a close call reported to and accepted by the independent third party may still be ineligible for a C³RS IMOU's protections. If the PRT did not have this authority, the primary alternative remedy for bad faith misuse of C³RS would be for a railroad participant or FRA to terminate its participation in that C³RS program, which would unfairly deprive railroad employees adhering to the C³RS IMOU's reporting criteria of the opportunity to improve railroad safety by reporting close calls.

[11] *See, e.g.,* Docket No. FRA–2023–0065–0003.

[12] *See* Docket Nos. FRA–2023–0042–0003; FRA–2023–0042–0004; and FRA–2023–0042–0005.

[13] All current C³RS IMOUs provide that employees do not receive the protections of the C³RS IMOU when a reported event is a ''Real-Time Observation.'' While the definition of ''Real-Time Observation'' differs slightly among the different C³RS IMOUs, it is always defined to include an event that was visually observed in real-time by an FRA inspector or railroad manager.

FRA has been working to clarify what it means for a close call to be accepted by both NASA and the PRT in recent C³RS IMOUs. For example, in the C³RS IMOU signed by Norfolk Southern Railway, FRA, BLET, and SMART–TD in February 2024,[14] Section 6.2 (''Conditions Under Which a Reporting Employee Is Not Protected from Railroad Discipline, Railroad Revocation of Certification, or FRA Civil Enforcement'') specifies seven conditions under which employees do not receive the C³RS IMOU's protections and affirmatively states that the PRT shall determine whether any of the conditions exist.[15] FRA acknowledges, however, that there remains some uncertainty among C³RS participants regarding the PRT's role in determining whether a reported close call is eligible for the protections of a C³RS IMOU.

To address this uncertainty, and in response to MTA's request for additional clarity, FRA is adding language to the proposed definition of ''Close call'' stating that ''For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.'' FRA believes this additional language clarifies what it means for a PRT to ''accept'' a close call report, both in the definition of ''Close call'' and elsewhere in the rule. FRA is otherwise finalizing the definition as proposed.

III. Section-by-Section Analysis

FRA is amending parts 240 and 242 to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C³RS program.[16] FRA is codifying these longstanding C³RS waivers by revising parts 240 and 242 to provide that a railroad may not revoke an engineer's or conductor's certification for a close call event that has been reported in accordance with all applicable provisions of a C³RS IMOU. Except as otherwise noted below, FRA has adopted the rule text as proposed, and readers may refer to the NPRM's Section-by-Section Analysis for extensive discussion of FRA's rationale for the revisions.

Section 240.7—Definitions and Section 242.7—Definitions

''C³RS Implementing Memorandum of Understanding (C³RS IMOU)''

For the reasons discussed above in Section II.C, FRA is finalizing the definition of ''C³RS Implementing Memorandum of Understanding (C³RS IMOU)'' in both sections 240.7 and 242.7 as proposed, except that FRA is replacing language in the proposed definition about a labor organization not being a stakeholder to a particular C³RS IMOU with language about a labor organization not being a signatory party to a C³RS IMOU. The new language reflects that labor organizations can be important stakeholders to the overall C³RS program, even if they are not signatory parties to a particular C³RS IMOU.

''Close call''

For the reasons discussed above in Section II.C, FRA is finalizing the definition of ''Close call'' in both sections 240.7 and 242.7 as proposed, except that FRA is including additional language clarifying that a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

''Peer Review Team (PRT)''

FRA is adopting the definition of ''Peer Review Team (PRT)'' as proposed, except for two clarifications. First, FRA is replacing the term ''primary stakeholders'' with ''signatory parties'' to reflect that not all C³RS stakeholders may be a signatory party to a particular C³RS IMOU. Second, FRA is adding language noting that a PRT may also include the following persons: a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor organization that has signed the C³RS IMOU; and other subject matter experts on an ad hoc basis when their expertise would assist the PRT in developing recommendations. This additional language reflects that most C³RS IMOUs provide for NASA and other subject matter experts to participate in a PRT when requested, and that C³RS IMOUs that cover non-represented employees generally provide that a railroad will appoint employees to participate in the PRT. FRA also notes that the intent of this definition is to describe PRT composition, not to regulate it, as PRT composition is subject to the provisions of a signed C³RS IMOU. This definition does not, for example, override IMOUs for railroads that participate in C³RS through the SLSI, which provide that the PRT is comprised of FRA and SLSI representatives.

IV. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within OMB determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This rule amends FRA's regulations governing the qualification and certification of locomotive engineers and conductors and codifies longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C³RS program. This final rule will reduce the burden on C³RS-participating railroads. Nothing in this final rule changes the voluntary and cooperative nature of C³RS, as participants retain the ability to terminate their participation in the program in accordance with the provisions of the applicable C³RS IMOU. Moreover, this rule will provide some qualitative benefits to regulated entities and the U.S. Government, by clarifying, simplifying, and updating the language of parts 240 and 242. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [17] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192

[14] *See https://railroads.dot.gov/elibrary/norfolk-southern-pilot-program-smarttd-blet-c3rs-imou.*

[15] *Id.*

[16] FRA does not intend this final rule to be a disincentive to railroads implementing alternative close call reporting programs outside C³RS, which the agency believes can still positively impact safety culture. FRA would still entertain waiver requests to implement alternative close call reporting programs, as necessary.

[17] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

deregulatory action, and an E.O. 14192 regulatory action.[18]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This rulemaking will have total costs less than zero, and therefore will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

In the NPRM, FRA certified that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification.

This final rule will not preclude small entities from continuing practices that comply with parts 240 and 242. By extending this regulatory relief, many regulated entities, including small entities, will experience cost savings in terms of reduced burden on C[3]RS-participating railroads. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers. The impact to small entities is not expected to be significant. Consequently, FRA holds to its previous certification that the final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and it contains no new information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520); therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements contained in parts 240 and 242 became effective when they were approved by OMB in 2024. The OMB approval numbers are OMB No. 2130–0533, which expires on July 31, 2027, and OMB No. 2130–0596, which expires on October 31, 2027.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [19] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects

49 CFR Part 240

Administrative practice and procedures, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 242

Administrative practice and procedure, Conductor, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends parts 240 and 242 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

■ 1. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Amend § 240.7 by adding definitions in alphabetical order for ''C[3]RS Implementing Memorandum of Understanding (C[3]RS IMOU)'', ''Close

[18] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation.'' Memorandum M–25–20 (Mar. 26, 2025).

[19] 66 FR 28355 (May 22, 2001).

call'', ''Confidential Close Call Reporting System (C³RS)'', ''Electronic device'', ''Hazardous material'', ''ID strip'', ''Independent third party'', ''Peer Review Team (PRT)'', and ''Personal electronic device'' to read as follows:

§ 240.7 Definitions.

* * * * *

C³RS Implementing Memorandum of Understanding (C³RS IMOU) means a voluntary written agreement that implements C³RS on a participating railroad and is signed by FRA, the participating railroad, and any non-profit employee labor organization(s) representing participating employees for purposes of the C³RS IMOU. If the participating employees are not represented by a non-profit labor organization, or if a non-profit employee labor organization representing employees covered by C³RS is not a signatory party to the C³RS IMOU, a C³RS IMOU may be signed only by FRA and the participating railroad. When contractor employees are participating in C³RS, the C³RS IMOU must also be signed by the contractor for the railroad and can be signed by any non-profit employee labor organization representing the contractor employees for purposes of the C³RS IMOU. FRA will post all C³RS IMOUs to the Federal Docket Management System's website at *https://www.regulations.gov.*

Close call means an unsafe event or sequence of unsafe events that had a potential for more serious adverse consequences to railroad safety and has been reported to C³RS and accepted by both the independent third party and the Peer Review Team (PRT) as a reportable close call in accordance with all applicable provisions of a C³RS IMOU. For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

* * * * *

Confidential Close Call Reporting System (C³RS) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad workers to report currently unreported or underreported unsafe events confidentially without the repercussions of suspension or revocation of certification.

* * * * *

Electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

Hazardous material means a commodity designated as a hazardous material by part 172 of this title.

ID strip means the identification strip the independent third party issues to an employee who has reported a close call to C³RS to indicate that the independent third party has accepted the close call.

Independent third party means the non-FRA organization that manages C³RS, accepts close call reports, and protects the confidentiality of both a reporting employee and a participating railroad.

* * * * *

Peer Review Team (PRT) is a problem-solving team consisting of representatives for the signatory parties to a C³RS IMOU, including FRA, the participating railroad, and any participating non-profit employee labor organization(s). A PRT may also include a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor organization that has signed the C³RS IMOU; or other subject matter experts, on an ad hoc basis, when the supplemental expertise would assist the PRT in developing recommendations.

* * * * *

Personal electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

■ 3. Amend § 240.117 by revising paragraphs (b) and (c)(1) and adding paragraph (f)(5) to read as follows:

§ 240.117 Criteria for consideration of operating rules compliance data.

* * * * *

(b) Except as provided in paragraph (f)(5) of this section, a person who has demonstrated a failure to comply, as described in paragraph (e) of this section, with railroad rules and practices for the safe operation of trains shall not be currently certified as a locomotive engineer.

(c)(1) Except as provided in paragraph (f)(5) of this section, a certified locomotive engineer who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of this section shall have his or her certification revoked.

* * * * *

(f) * * *

(5) In accordance with § 240.307(i)(3), a railroad shall not deny or revoke an employee's certification based on an alleged violation of the railroad's operating rules or practices that the employee reported to C³RS as a close call and was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

* * * * *

■ 4. Amend § 240.307 by revising paragraph (i) to read as follows:

§ 240.307 Revocation of certification.

* * * * *

(i) A railroad:

(1) Shall not revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the locomotive engineer's ability to comply with the railroad operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5).

(2) May decide not to revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that the violation of § 240.117(e)(1) through (5) was of a minimal nature and had no direct or potential effect on rail safety.

(3)(i) Shall not suspend or revoke the person's certification as provided for in paragraph (a) of this section if the person reported the alleged violation of the railroad's operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5) to C³RS as a close call; and if the person's report was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

(ii)(A) If a railroad initiates suspension or revocation of the person's certification and the person indicates the alleged violation was reported to C³RS as a close call, the time limits prescribed in this section for pursuing certificate suspension or revocation will be put in abeyance, pending provision of an ID strip from the reporting employee, or the employee's designated representative, to the investigating officer or presiding officer and confirmation from the PRT that the alleged violation was reported and accepted as a close call.

(B) A determination made by the independent third party or the PRT regarding whether a report was accepted as a close call may not be overturned pursuant to the administrative hearing and dispute resolution procedures in subpart E of this part, but may be included as a finding of fact for purposes of determining whether the railroad impermissibly revoked a person's certification for an alleged violation that was reported and accepted as a close call by both the third party and the PRT.

(C) This paragraph (i)(3) will not apply to any alleged violation of a

railroad's operating rules or practices that constitutes a violation under § 240.117(e)(1) through (5) that involves:

(*1*) An event that caused or is alleged to have caused death, injury, illness, or medical treatment of any kind to any person (including a passenger) involved in the event;

(*2*) An event that results in damages above the current monetary rail equipment accident/incident reporting threshold described in part 225 of this chapter and published annually by FRA;

(*3*) An event that results in a highway-rail grade crossing accident/incident, as described in § 225.19(b) of this chapter;

(*4*) A willful violation of a Federal railroad safety law or railroad operating rule or practice, including the prohibited use of alcohol or a controlled substance;

(*5*) A substance abuse disorder;

(6) An event resulting in the identifiable release of a hazardous material;

(7) An act of sabotage or other criminal offense; or

(8) An event involving use of a personal electronic device that is prohibited by a Federal railroad safety law or railroad operating rule.

* * * * *

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 5. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 6. Amend § 242.7 by adding definitions in alphabetical order for ''C3RS Implementing Memorandum of Understanding (C3RS IMOU),'' ''Close call,'' ''Confidential Close Call Reporting System (C3RS),'' ''Electronic device,'' ''Hazardous material,'' ''ID strip,'' ''Independent third party,'' ''Peer Review Team (PRT),'' and ''Personal electronic device'' to read as follows:

§ 242.7 Definitions.

* * * * *

C³RS Implementing Memorandum of Understanding (*C³RS IMOU*) means a voluntary written agreement that implements C³RS on a participating railroad and is signed by FRA, the participating railroad, and any non-profit employee labor organization(s) representing participating employees for purposes of the C³RS IMOU. If the participating employees are not represented by a non-profit labor organization, or if a non-profit employee labor organization representing employees covered by C³RS is not a signatory party to the C³RS IMOU, a C³RS IMOU may be signed only by FRA and the participating railroad. When contractor employees are participating in C³RS, the C³RS IMOU must also be signed by the contractor for the railroad and can be signed by any non-profit employee labor organization representing the contractor employees for purposes of the C³RS IMOU. FRA will post all C³RS IMOUs to the Federal Docket Management System's website at *https://www.regulations.gov.*

Close call means an unsafe event or sequence of unsafe events that had a potential for more serious adverse consequences to railroad safety and has been reported to C³RS and accepted by both the independent third party and the Peer Review Team (PRT) as a reportable close call in accordance with all applicable provisions of a C³RS IMOU. For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

* * * * *

Confidential Close Call Reporting System (*C³RS*) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad workers to report currently unreported or underreported unsafe events confidentially without the repercussions of suspension or revocation of certification.

* * * * *

Electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

Hazardous material means a commodity designated as a hazardous material by part 172 of this title.

ID strip means the identification strip the independent third party issues to an employee who has reported a close call to C³RS to indicate that the independent third party has accepted the close call.

Independent third party means the non-FRA organization that manages C³RS, accepts close call reports, and protects the confidentiality of both a reporting employee and a participating railroad.

* * * * *

Peer Review Team (PRT) is a problem-solving team consisting of representatives for the signatory parties to a C³RS IMOU, including FRA, the participating railroad, and any participating non-profit employee labor organization(s). A PRT may also include a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor organization that has signed the C³RS IMOU; or other subject matter experts, on an ad hoc basis, when the supplemental expertise would assist the PRT in developing recommendations.

* * * * *

Personal electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

■ 7. Amend § 242.403 by revising paragraphs (b) and (c)(1) and adding paragraph (f)(5) to read as follows:

§ 242.403 Criteria for revoking certification.

* * * * *

(b) Except as provided in paragraph (f)(5) of this section, it shall be unlawful to fail to comply with any of the railroad rules and practices described in paragraph (e) of this section.

(c)(1) Except as provided in paragraph (f)(5) of this section, a certified conductor who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of this section shall have his or her certification revoked.

* * * * *

(f) * * *

(5) In accordance with § 242.407(i)(3), a railroad shall not deny or revoke an employee's certification based on an alleged violation of the railroad's operating rules or practices that the employee reported to C³RS as a close call and was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

* * * * *

■ 8. Amend § 242.407 by revising paragraph (i) to read as follows:

§ 242.407 Process for revoking certification.

* * * * *

(i) A railroad:

(1) Shall not revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the conductor's ability to comply with the railroad operating rule or practice which constitutes a violation under § 242.403(e)(1) through (11).

(2) May decide not to revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that the violation of § 242.403(e)(1) through (11) was of a minimal nature and had no direct or potential effect on rail safety.

(3)(i) Shall not suspend or revoke the person's certification as provided for in

paragraph (a) of this section if the person reported the alleged violation of the railroad's operating rule or practice that constitutes a violation under § 242.403(e)(1) through (11) to C[3]RS as a close call; and if the person's report was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C[3]RS IMOU.

(ii)(A) If a railroad initiates suspension or revocation of the person's certification and the person indicates the alleged violation was reported to C[3]RS as a close call, the time limits prescribed in this section for pursuing certificate suspension or revocation will be put in abeyance, pending provision of an ID strip from the reporting employee, or the employee's designated representative, to the investigating officer or presiding officer and confirmation from the PRT that the alleged violation was reported and accepted as a close call.

(B) A determination made by the independent third party or the PRT regarding whether a report was accepted as a close call may not be overturned pursuant to the administrative hearing and dispute resolution procedures in subpart F of this part, but may be included as a finding of fact for purposes of determining whether the railroad impermissibly revoked a person's certification for an alleged violation that was reported and accepted as a close call by both the third party and the PRT.

(C) This paragraph (i)(3) will not apply to any alleged violation of a railroad's operating rules or practices that constitutes a violation under § 242.403(e)(1) through (11) that involves:

(*1*) An event that caused or is alleged to have caused death, injury, illness, or medical treatment of any kind to any person (including a passenger) involved in the event;

(*2*) An event that results in damages above the current monetary rail equipment accident/incident reporting threshold described in part 225 of this chapter and published annually by FRA;

(*3*) An event that results in a highway-rail grade crossing accident/incident, as described in § 225.19(b) of this chapter;

(*4*) A willful violation of a Federal railroad safety law or railroad operating rule or practice, including the prohibited use of alcohol or a controlled substance;

(*5*) A substance abuse disorder;

(*6*) An event resulting in the identifiable release of a hazardous material;

(*7*) An act of sabotage or other criminal offense; or

(*8*) An event involving use of a personal electronic device that is prohibited by a Federal railroad safety law or railroad operating rule.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08253 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 242

[Docket No. FRA–2025–0133; Notice No. 2]

RIN 2130–AD61

Miscellaneous Revisions to the Qualification and Certification of Conductors

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule updates FRA's conductor certification requirements to reduce the information required on a conductor's certificate and allowing certificates to be electronic. This rule also changes the certification revocation process and the Administrative Hearing Officer (AHO) process. Lastly, this rule makes administrative updates, including revising definitions and correcting errors in the regulatory text.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Christian Holt, Staff Director-Operating Practices Division, FRA, telephone: 202–366–0978, email: *christian.holt@dot.gov;* or Michael C. Spinnicchia, Attorney Adviser, FRA, telephone: 202–713–7671, email: *michael.spinnicchia@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in 49 CFR parts 200 through 299 and revising requirements to reduce unnecessary regulatory burdens without compromising transportation safety.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed various changes to 49 CFR part 242 (part 242).[1] Specifically, the NPRM proposed: (1) reducing the information required on a conductor's certificate and allowing certificates to be electronic; (2) requiring railroads to include findings of fact in support of their certification revocation decisions; (3) changing the administrative hearing process so railroads always carry the burden of proof; and (4) making miscellaneous administrative updates to part 242. FRA also requested comments on whether to remove the requirement that FRA is a mandatory party in the administrative hearing process.

FRA received two comments. The International Association of Sheet Metal, Air, Rail, and Transportation Workers—Transportation Division (SMART–TD) and the Transportation Trades Department, AFL–CIO (TTD) (collectively, ''the labor organizations'') each submitted a comment supporting some of the changes proposed in the NPRM and opposing other changes. The labor organizations generally supported FRA's proposal to require railroads to provide findings of fact when issuing their revocation decisions and placing the burden of proof on railroads during administrative hearings. However, they opposed allowing railroads to use electronic certificates exclusively and removing FRA as a mandatory party to administrative hearings.

In response to this feedback, FRA is proceeding with the changes it proposed in the NPRM. In addition, FRA has decided to amend 49 CFR 242.509(p) and (r) to remove FRA as a mandatory party in the administrative hearing process described in section 242.509, and instead, provides FRA the option of participating.

II. Section-by-Section Analysis

Except as otherwise noted below, FRA has adopted the rule text as proposed, and readers may refer to the NPRM's Section-by-Section Analysis for extensive discussion of FRA's rationale for the revisions.

Section 242.11 Penalties and Consequences for Noncompliance

FRA's proposed revisions to this section included replacing references to specific penalty amounts with a reference to 49 CFR part 209, appendix A. FRA is amending section 242.11, as proposed, with some minor formatting edits.

[1] 90 FR 28684 (July 1, 2025).

Section 242.207 Certificate Components

This section details what information must be included on a conductor's certificate. FRA proposed removing the requirement found in paragraph (a)(3) of this section that these certificates include the conductor's year of birth. SMART–TD described this change as ''a positive step for privacy and data protection,'' as putting the year of birth on a certificate needlessly exposes conductors to identity theft.[2] Based on this positive comment, FRA is proceeding with removing the year of birth requirement from conductor certificates.

FRA also proposed amending paragraph (a)(7) of this section to allow certificates to be electronic. SMART–TD and TTD [3] advocated for conductors to have both electronic and paper certificates. Both organizations acknowledged that electronic certificates could reduce administrative delays by preventing lost or damaged certificates. However, they expressed concern that not all conductors have equal access to digital devices or reliable connectivity. If the railroad only provides electronic certificates, certain conductors could be at a disadvantage or face discipline for circumstances beyond their control. SMART–TD added that if a railroad is hacked or a conductor's information is linked to a particular train, that could constitute a security threat to conductors assigned to high value or strategically sensitive freight.

In response to the labor organizations' concerns, FRA first clarifies that its proposed revision to paragraph (a)(7) does not prohibit the use of paper certificates. It simply gives railroads the option of issuing paper certificates, electronic certificates, or both. Despite the arguments from SMART–TD and TTD, FRA does not find a need to mandate that railroads issue both paper and electronic certificates. If a conductor does not have a railroad-issued electronic device, the railroad will need to ensure that he or she has a physical copy of their certificate to comply with 49 CFR 242.209(a), which requires conductors to have their certificate in their possession while on duty. For conductors that have a railroad-issued electronic device, they can still print a paper copy of their certificate if they desire. They can also save a copy of their certificate to their device, which would protect against any connectivity concerns.

With respect to SMART–TD's concerns that electronic certificates could create security threats to conductors in the event of a hack, the purpose of the certificate, whether paper or electronic, is to document certification status under part 242. It does not contain or link to operational data such as train numbers or assignments. Any such information resides within a railroad's internal crew management system, which is separate from certification records. FRA's change to allow electronic certificates is intended only to provide administrative flexibility and does not create any new vulnerabilities or tracking mechanisms.

In summary, FRA has determined to allow, but not require, railroads to issue certificates electronically. This will provide railroads with greater flexibility while decreasing the likelihood of certificates getting lost or damaged and having to be replaced.

Section 242.407 Process for Revoking Certification

FRA proposed clarifying in this section that railroad revocation decisions must contain findings of fact, and the basis for those findings, regardless of what is required under the applicable collective bargaining agreement (CBA). Both labor organizations wrote in support of this change, stating that it would provide transparency, ensure due process, and allow conductors to understand the reasoning behind the railroad's decision. They requested that FRA establish timelines for railroads to produce these findings of fact, as delays in the revocation process can cause significant harm to conductors. They also requested that FRA adopt enforceable penalties to ensure compliance with this requirement.

Findings of fact must be included in a railroad's revocation decision. Railroads with applicable CBAs must comply with any timelines in those agreements for issuing such decisions. FRA declines to override the timelines established in those agreements, especially since the applicable labor organization has already agreed to those terms. When there is no applicable CBA, paragraph (c)(10) of this section requires that a railroad's revocation decision, containing findings of fact, be prepared and signed no later than 10 days after the close of the record. Therefore, the requested timelines have already been established, and FRA does not need to make further changes to this section beyond what was proposed in the NPRM.

For railroads that fail to comply with this revised section by not providing conductors with adequate findings of fact, FRA may exercise its enforcement authority pursuant to 49 CFR part 209. In addition, any alleged occurrence of a railroad's non-compliance with this section may be reported to FRA for further investigation.

Section 242.509 Hearings

Both SMART–TD and TTD supported FRA's proposed change to paragraph (q) of this section making the railroad the ''hearing petitioner'' in the administrative hearing regardless of who the prevailing party was at the Operating Crew Review Board. SMART–TD noted it was fundamentally unfair to require a conductor to prove their innocence against a corporation with substantial resources. While SMART–TD and TTD support this change, they expressed concern that it could lead railroads to retaliate against conductors by using the certification process as a disciplinary weapon. SMART–TD referenced a recent inquiry by the Occupational Safety and Health Administration into ''the culture of abusive labor practices in railroading regarding the treatment of whistleblowers'' and claimed that this change to paragraph (q) will trigger ''a strong and predictably vindictive response.'' Both organizations asked FRA to guard against, and to penalize, railroads that act in bad faith and attempt to revoke certifications illegitimately for retaliatory purposes.

FRA finds that SMART–TD and TTD may be overstating the likelihood that the revision to paragraph (q) will lead to railroads taking retaliatory action. Over the last several years, an administrative hearing has been requested in fewer than one percent of all conductor certification revocations. Thus, this change will have no effect on most cases where a conductor's certification is revoked. Therefore, FRA is unclear why this change would motivate railroads to retaliate against conductors. However, if such retaliation occurs, FRA encourages that it be reported for further investigation.

Existing paragraph (r) of this section states that FRA is a mandatory party to the administrative hearing and will be a respondent at the start of the hearing. FRA requested comment on whether this paragraph should be removed in its entirety, to no longer require the agency to be a mandatory party. The labor organizations strongly opposed removing the requirement that FRA be a mandatory party. SMART–TD and TTD argued that FRA serves as an independent check on railroad overreach, and if FRA were to step back from this role, administrative hearings

[2] FRA–2025–0133–0002.

[3] FRA–2025–0133–0003.

would become railroad-dominated proceedings and conductors would be significantly disadvantaged. They implored FRA to remain fully engaged in these certification disputes to preserve fairness and legitimacy.

The labor organizations' comments appear to be imputing the responsibilities of the AHO onto FRA. It is the AHO (or presiding officer), not FRA, who ensures a fair hearing.[4] Also, their comments presume that FRA would always be aligned with the conductor or conductor candidate in these disputes. However, in some cases, FRA would be aligned with the railroad, which presumably would work to the railroad's benefit and the conductor or conductor candidate's disadvantage.

FRA acknowledges that in some cases, it may be able to provide important insights, which is why, after consideration of these comments, instead of requiring FRA to be a party in these proceedings, it will revise this section to state that FRA *may* be a party to the administrative hearing. This preserves the agency's ability to participate in disputes where it believes it has important insights to provide. FRA may also decide to participate in cases where it thinks its participation will prevent an injustice from occurring. However, this also gives FRA flexibility not to participate in matters where FRA's participation would be unnecessary, waste agency resources, or not serve the agency's best interests. This change will allow FRA to maximize its allocation of resources, while also participating in matters of significant importance to the agency. Therefore, FRA is revising paragraph (p) to state that FRA *may* be a party at the hearing. As there is no need to repeat this statement in paragraph (r), FRA is also removing existing paragraph (r) and redesignating paragraphs (s) through (u) as paragraphs (r) through (t).

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866. FRA analyzed the potential costs and benefits of this final rule. In this final rule, FRA makes several revisions and clarifications to improve clarity, efficiency, and the allocation of agency resources. These include revisions to specify the appropriate information to be included in required documents, clarification of alternatives for issuance of such documents, and the clarification of provisions that were not clear. In addition, these revisions reduce administrative burden. The revisions to section 242.207 on conductor's certificates will provide railroads with greater flexibility and will reduce the time and resources spent replacing lost or damaged certificates. These revisions will also have the qualitative benefit of enhancing privacy and data protection for workers. The revisions to section 242.407 on revocation decisions will impose a small cost by requiring some railroads to provide information that they do not currently provide. However, these revisions will also provide qualitative benefits to workers, including enhanced transparency, fairness, and understanding. Finally, revisions to section 242.509 grant FRA the discretion to determine its level of participation in administrative hearings. This modification provides qualitative benefits by enhancing fairness for workers, as the railroad will assume the role of ''hearing petitioner.'' In addition, the Government will realize cost savings from no longer being required to participate as a mandatory party in each administrative hearing. Overall, FRA finds that this will result in net costs less than zero.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' [5] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[6]

An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This final rule will have net costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[7] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory relief provided by this rule will result in cost savings for many regulated entities, including small entities. The impact to small entities is not expected to be significant. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and there is no new information collection requirement, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements already contained in part 242 became effective when they were approved by OMB on October 24, 2024. The OMB approval number is OMB No. 2130–0596, and OMB approval expires on October 31, 2027.

[4] *See, e.g.,* 49 CFR 242.509(b) (''The presiding officer may exercise the powers of the Administrator to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy.''); 49 CFR 242.509(d) (''The presiding officer may authorize discovery of the types and quantities which in the presiding officer's discretion will contribute to a fair hearing without unduly burdening the parties.'').

[5] Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation,* 90 FR 9065–9067 (Feb. 6, 2025).

[6] Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled ''Unleashing Prosperity Through Deregulation,'' Memorandum M–25–20 (Mar. 26, 2025).

[7] Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [8] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 242

Administrative practice and procedure, Conductor, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 242 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 1. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. In § 242.7, revise the definitions of ''File, filed and filing'' and ''Serve or service'' to read as follows:

§ 242.7 Definitions.

* * * * *

File, filed, and filing mean submission of a document under this part on the date when the DOT Docket Clerk or FRA receives it, or if served as that term is defined under 49 CFR 209.5, the date of service.

* * * * *

Serve or service, in the context of serving documents, has the meaning given in 49 CFR 209.5. The computation of time provisions in Rule 6 of the Federal Rules of Civil Procedure as amended are also applicable in this part. *See also* the definition of ''file, filed, and filing'' in this section.

* * * * *

■ 3. Revise § 242.11(a) to read as follows:

§ 242.11 Penalties and consequences for noncompliance.

(a) A person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed, where a grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons, or a death or injury has occurred. See 49 CFR part 209, appendix A. Each day a violation continues shall constitute a separate offense. See FRA's website at *https://railroads.dot.gov/*for a statement of agency civil penalty policy.

* * * * *

■ 4. Revise § 242.201(a)(3) to read as follows:

§ 242.201 Time limitations for certification.

(a) * * *

(3) A determination concerning demonstrated knowledge and the knowledge examination being relied on was conducted more than 366 days before the date of the railroad's certification decision except as provided for in paragraph (a)(4) of this section; or

* * * * *

■ 5. Revise § 242.207(a)(3) and (7) to read as follows:

§ 242.207 Certificate components.

(a) * * *

(3) Identify the person to whom it is being issued (including the person's name, employee identification number, and either a physical description or photograph of the person);

* * * * *

(7) Be electronic or be of sufficiently small size to permit being carried in an ordinary pocket wallet.

* * * * *

■ 6. Revise § 242.407(d) to read as follows:

§ 242.407 Process for revoking certification.

* * * * *

(d) A hearing required by this section which is conducted in a manner that conforms procedurally to the applicable collective bargaining agreement shall be deemed to satisfy the procedural requirements of this section except that the railroad's decision must comply

[8] 66 FR 28355 (May 22, 2001).

with the requirements in paragraph (c)(11) of this section.

* * * * *

■ 7. Amend § 242.509 by removing paragraph (r), redesignating paragraphs (s) through (u) as paragraphs (r) through (t), and revising paragraphs (p) and (q) to read as follows:

§ 242.509 Hearings.

* * * * *

(p) The petitioner before the Operating Crew Review Board and the railroad involved in taking the certification action shall be parties at the hearing. FRA may also be a party at the hearing. All parties may participate in the hearing and may appear and be heard on their own behalf or through designated representatives. All parties may offer relevant evidence, including testimony, and may conduct such cross-examination of witnesses as may be required to make a record of the relevant facts.

(q) Regardless of the prevailing party before the Operating Crew Review Board, the railroad involved in taking the certification action shall be the ''hearing petitioner'' and shall have the burden of proving its case by a preponderance of the evidence. The impacted conductor or conductor candidate shall be the ''hearing respondent.''

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08259 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260422–0108]

RIN 0648–BN55

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS announces the implementation of Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). This framework modifies exemptions to the minimum mesh size requirements in the commercial summer flounder fishery. The purpose of this action is to increase operational flexibility for the commercial fishing industry.

DATES: This rule is effective April 27, 2026.

ADDRESSES: Copies of the draft Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass FMP, including the Environmental Assessment and the Regulatory Impact Review (EA/RIR) prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: *https://www.mafmc.org/actions/summer-flounder-commercial-mesh-exemptions.*

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Policy Analyst, (978) 281–9184, or *laura.deighan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively develop management measures for the summer flounder, scup, and black sea bass fisheries in state and Federal waters. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Administrative Procedure Act, NMFS reviews Council recommendations and, after taking public comment, implements approved fishery management actions for Federal waters.

In this final rule, NMFS is implementing Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass FMP (*i.e.,* the Summer Flounder Commercial Mesh Exemption Framework Action). The Summer Flounder Commercial Mesh Exemption Framework Action implements changes to the two existing exemptions from the minimum mesh size requirements in the commercial summer flounder fishery. The goal of this framework is to modernize the exemptions to be consistent with current gear use and fishing practices, providing the industry with better access to the exemptions and greater operational flexibility. These changes are consistent with the original intent of the minimum mesh size exemptions, which is to reduce summer flounder discards in other fisheries without increasing the catch of smaller summer flounder.

The implementing regulations for the FMP are found at 50 CFR part 648 subpart G. Pursuant to Magnuson-Stevens Act section 303(b)(4), in order to protect smaller summer flounder, the summer flounder regulations at § 648.108(a) specify the minimum allowable mesh size when using an otter trawl in the commercial summer flounder fishery. The regulations at § 648.108(b) provide two exemptions from the minimum mesh size requirements: (1) the Small-Mesh Exemption Program (SMEP), which provides exemptions within a defined geographical area from November through April for vessels holding an appropriate Letter of Authorization (LOA) issued by the Regional Office for this purpose; and (2) the flynet exemption, which allows exemptions for vessels using a specific net configuration. Additional information on the history and details of these programs is provided in the proposed rule (90 FR 44618, September 16, 2025) and is not repeated here.

Under the rulemaking authority of Magnuson-Stevens Act sections 303(c) and 304(b), this action implements three modifications to the existing summer flounder minimum mesh size exemptions, as requested by the fishing industry and recommended by the Council: (1) expansion of the geographical area of the SMEP; (2) revision of the annual evaluation process for the SMEP; and (3) revision of the definition of a flynet within the summer flounder regulations. Under the Secretarial rulemaking authority of Magnuson-Stevens Act section 305(d), which authorizes NMFS to promulgate regulations necessary to carry out an FMP, this action also implements three administrative changes related to the minimum mesh size exemptions: (1) allowance for a minimum LOA period of less than 7 days to provide added operational flexibility to the industry; (2) implementation of the use of a flynet vessel trip reporting (VTR) code for ease of tracking fishing activity under the flynet exemption; and (3) revision of the criterion used to evaluate whether to terminate the flynet exemption in order to more accurately align with the original FMP amendment and the original objective of the action. These administrative changes support the implementation of the framework, alleviate an administrative constraint

that is no longer necessary, and correct an error in the regulations.

Final Measures

SMEP: Area Expansion

This action moves the western boundary of the SMEP area approximately 5 miles (8 kilometers (km)) west for the portion of the area south of Long Island Sound. The coordinates of the revised area are found in § 648.108, as implemented by this rule. The use of bottom-tending gear is prohibited in the Frank R. Lautenberg Deep-Sea Coral Protection Area, and this action would not modify the portion of the SMEP south of that area nor allow SMEP trips in the Coral Protection Area. The revision adds approximately 4,943 km^2 (1,441 nautical $miles^2$) of accessible waters to the SMEP area after excluding the deep-sea coral zone.

Members of the fishing industry requested this change to provide greater flexibility to those fishing in multiple fisheries, noting that the SMEP has reduced summer flounder regulatory discards and is critical for the economic stability of their businesses. The expansion of the SMEP area is intended to allow for greater retention of summer flounder in areas where summer flounder permit holders are currently participating in other fisheries using mesh below the summer flounder minimum mesh size. The change is not expected to pose a risk to the health of the summer flounder stock because: (1) overall summer flounder landings are constrained by annual catch limits; (2) the summer flounder regulations prohibit the retention of undersized summer flounder; and (3) the regulations allow for the SMEP to be temporarily terminated if data indicate that SMEP participants are discarding summer flounder above a specified threshold. This action additionally corrects a citation referring to net stowage requirements in section 648.14(n)(2)(iii)(B).

SMEP: Discard Threshold Evaluation

This action updates the annual review criteria for the SMEP. The current regulations authorize the Regional Administrator to terminate the SMEP for the remainder of the season when a threshold of an average of 10 percent of summer flounder catch is discarded per SMEP trip (by weight). This action increases the discard threshold to an average of 25 percent of the summer flounder catch per SMEP trip (by weight). This change is based on improved data quality and availability. The increase to the evaluation threshold is not expected to result in significant increases in summer flounder discards and would ensure that termination of the SMEP is considered when SMEP discards increase beyond what is considered normal relative to the summer flounder fishery as a whole.

When the discard threshold is reached, the Monitoring Committee will lead the preparation of an analysis of SMEP discards before the Regional Administrator decides whether to temporarily revoke the SMEP. Alternatively, if NMFS leads the preparation of the analysis, then the Monitoring Committee will review that analysis ahead of the Regional Administrator's decision. Implementing a Monitoring Committee-led review of SMEP discards will allow the Regional Administrator to consider other relevant information before deciding whether to temporarily revoke the SMEP. These changes are intended to prevent premature SMEP closures and unnecessary economic harm to permit holders who rely on the SMEP.

Finally, this action also changes the timing of the SMEP revocation, authorizing the Regional Administrator to terminate the exemption for the remainder of the current SMEP season or the following SMEP season. The current regulations allow the Regional Administrator to terminate the SMEP for only the remainder of the current season. This action would add an option to terminate the SMEP for the following SMEP season based on the lag in data availability and the timeline required to undertake an in-depth review of SMEP discards.

SMEP: LOA 7-Day Minimum

This action updates the SMEP participation period, allowing the Regional Administrator to specify a shorter minimum participation period of between 1 and 7 days. These changes would occur as needed alongside development and further advancement of paperless LOAs. The 7-day minimum was originally implemented due to the administrative burden of processing paper-based LOA applications and withdrawal requests. However, the 7-day minimum participation period limits the industry's ability to adjust its behavior based on real-time fishing conditions. This administrative change also allows for the minimum participation period to be reduced when technology that enables faster LOA processing becomes available. On April 1, 2026, regional NMFS staff implemented paperless LOAs and integrated them into the region's electronic permitting system. This updated system automatically validates qualification criteria and issues LOAs, which should obviate the need for the 7-day minimum. This rule will accommodate the paperless LOA process by allowing for a minimum LOA period from 7 days to as short as 1 day.

Flynet Exemption: Flynet Definition

This action changes the regulatory definition of a ''flynet'' by removing the requirements for a specified number of seams and the maximum mesh size within the summer flounder regulations at § 648.108(b)(2). Industry feedback indicated that the current definition does not reflect modern net configurations and that similar nets that align with the original objective of the flynet exemption are used throughout the region. Based on consultations with members of the fishing industry that use the gear, the updated definition will be ''an otter trawl with: (1) large mesh in the wings that measures 8 inches (20 cm) or greater; (2) a first body (belly) section that has at least 280 inches (711 cm) of mesh behind the sweep where the mesh size is at least 8 inches (20 cm); and (3) mesh that decreases in size throughout the body of the net toward the codend.'' As with the proposed SMEP alterations, this change is not expected to pose a risk to the health of the summer flounder stock given the summer flounder annual catch limits, summer flounder minimum size requirements, and the Regional Administrator's authority to rescind the flynet exemption for the remainder of the year when a specific threshold is reached.

Flynet Exemption: Termination Evaluation

This action revises the evaluation criterion in § 648.108(b)(2)(iv) used to determine whether the termination of the flynet exemption may be warranted, replacing ''discards'' with ''catch.'' In amendment 2 to the FMP, the Council recommended that the Regional Administrator consider terminating the flynet exemption when the annual average summer flounder catch exceeds 1 percent of the total catch in the flynet fishery. However, the regulations provide a criterion of summer flounder discards greater than 1 percent of summer flounder catch in the flynet fishery. The record for that amendment does not indicate that NMFS rejected the Council's recommendation nor does it provide a rationale for such a change. Rather, the difference between the FMP and regulations likely resulted from an administrative error which this rule will correct.

Flynet Exemption: Vessel Trip Reporting

This action implements a flynet gear code to identify trips taken under the flynet exemption more accurately through VTRs. Currently, evaluation of the flynet exemption relies on the vessel operator self-reporting the net type during observed trips. Given the limited number of observed trips and the variation in net terminology throughout the region, accurate identification of flynet trips has been challenging. This change will support improved monitoring of the flynet exemption, which will result in improved decision making regarding termination of, or any future modifications to, the exemption.

Comments

NMFS received three comments on the proposed rule (90 FR 44618, September 16, 2025) from four individuals. Two comments expressed support for the proposed action. One comment written by two individuals expressed partial support while offering concerns about bycatch reduction and stakeholder input.

Comment 1: One comment requested that the action include a gradual transition to requiring the use of semi-pelagic otterboards to reduce bycatch and mitigate the environmental impacts of bottom-tending gear on seabed habitats.

Response: This action was initiated after the Council's fall 2023 review of summer flounder commercial mesh regulations, which identified necessary changes to the SMEP based on feedback from the commercial fishing industry. The scope of this action was set after multiple rounds of public input, Committee discussion, and Council review. In order to comply with the National Environmental Policy Act, an EA was prepared at the proposed rule stage that found no significant impacts of all alternative proposed actions on the quality of the human environment. The goals described in this comment fall outside of the purpose and need for this action that was evaluated in the EA. In addition, NMFS determined that the rule is not expected to notably change fishing locations, amount of gear in the water, or timing of fishing in a manner that would modify existing impacts to habitat. Finally, NMFS determined that this rule is in compliance with section 7(d) of the Endangered Species Act (ESA) because no incentive is provided for vessels to increase effort, substantially change the area fished, or change the gear types used to catch summer flounder, so no new or elevated interaction risks with ESA-listed species are expected to occur. While the commenter can seek the Council to pursue this approach in a future action, NMFS has determined that implementing further changes to gear regulations is outside the scope of this rule.

Comment 2: The same commenters also requested that the rule conduct a more thorough cost-benefit analysis by considering a wider range of stakeholders, including researchers or conservationists.

Response: Members of the Council, Advisory Panel, and Monitoring Committee represent a wide range of fishery stakeholders, including researchers, environmental conservation professionals, and representatives of the recreational and commercial fishing industries. Actions such as this rule are developed through meetings that are open to public comment and documented on the Council's website. The Council prepared thorough analyses of the action's impacts on habitat, protected resources, and human communities as part of its EA, RIR, and Regulatory Flexibility Act compliance. NMFS has determined that these analyses are sufficient to support this final rule.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

NMFS is issuing this rule pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act. Section 304(b) provides specific authority for implementing this action. Sections 304(b) and 305(d) of the Magnuson-Stevens Act authorize NMFS to review and, if warranted, approve and implement rules and regulations deemed necessary by the Council. Pursuant to section 305(d) of the Magnuson-Stevens Act, this action is necessary to carry out the FMP because the administrative changes proposed under this authority support implementation of the Council's proposed changes, alleviate an administrative constraint that is no longer necessary, and correct an error in the regulations. The NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

Pursuant to 5 U.S.C. 553(d)(1) and (d)(3), the 30-day delay in effective date requirement does not apply to this rule because: (1) the rule will relieve a restriction on fishery participants; and (2) there is good cause to implement it immediately. This rule relieves a restriction by expanding the area within which the SMEP exception applies and eliminating the restriction for a 7-day minimum LOA period. SMEP exemptions allow summer flounder permit holders using smaller mesh in other fisheries to retain more summer flounder, thus converting discards to landings. This rule expands the SMEP area by 4,943 km^2, allowing greater retention of summer flounder in areas where summer flounder permit holders are participating in other fisheries using mesh below the summer flounder minimum mesh size. The 7-day minimum participation period for SMEP LOAs previously limited industry's ability to respond to real-time fishing conditions. Relief of this restriction therefore provides greater flexibility for fishery participants. There is good cause to implement this rule immediately because modernizing the regulatory definition of exempted flynet gear aligns the exempted flynet gear with current fishing operations. This new definition reflects modern net configurations that serve the original objective of the flynet exemption and are already in use throughout the region. The updated flynet gear definition is expected to reduce potential confusion and/or inadvertent violations.

For the reasons above, the 30-day delay in effective date does not apply to this rule.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule is considered an E.O. 14192 deregulatory action.

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 E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared.

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. No comments were received regarding this certification. As a result, a

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 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 23, 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 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 § 648.4, revise paragraph (a)(3)(iii) to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(3) * * *

(iii) *Exemption permits.* Owners of summer flounder vessels seeking an exemption from the minimum mesh requirement under the provisions of § 648.108(b)(1) must request a letter of authorization (LOA) from the Regional Administrator. Vessels must be enrolled in the exemption program for a minimum period, specified by the Regional Administrator, of up to 7 days. The Regional Administrator may impose temporary additional procedural requirements by publishing a notification in the **Federal Register**. If a summer flounder charter or party requirement of this part differs from a summer flounder charter or party management measure required by a state, any vessel owners or operators fishing under the terms of a summer flounder charter/party vessel permit in the EEZ for summer flounder must comply with the more restrictive requirement while fishing in state waters, unless otherwise authorized under § 648.107.

* * * * *

■ 3. In § 648.14, revise paragraphs (n)(2)(iii)(B) and (C) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(n) * * *

(2) * * *

(iii) * * *

(B) Fish with or possess nets or netting that are modified, obstructed, or constricted, if fishing with an exempted net described in § 648.108, unless the nets or netting are stowed in accordance with § 648.108(e).

(C) Fish outside of the area specified in § 648.108(b)(1)(i) if exempted from the minimum mesh requirement specified in § 648.108 by a summer flounder Small-Mesh Exemption Program letter of authorization.

* * * * *

■ 4. In § 648.102, revise paragraph (a)(5) to read as follows:

§ 648.102 Summer flounder specifications.

(a) * * *

(5) Adjustments to the exempted area boundary and season specified in § 648.108(b)(1), based on data reviewed by the Summer Flounder Monitoring Committee during the specification process, to prevent discarding of more than an average of 25 percent of the summer flounder catch per trip, by weight, from all SMEP trips.

* * * * *

■ 5. In § 648.106, revise paragraph (d) to read as follows:

§ 648.106 Summer flounder possession restrictions.

* * * * *

(d) *Commercially permitted vessel possession limits.* Owners and operators of otter trawl vessels issued a permit under § 648.4(a)(3) that fish with or possess nets or pieces of net on board that do not meet the minimum mesh requirements and that are not stowed in accordance with § 648.108(e), may not retain 100 lb (45.4 kg) or more of summer flounder from May 1 through October 31, or 200 lb (90.7 kg) or more of summer flounder from November 1 through April 30, unless the vessel is fishing under an exemption, as specified in § 648.108(b). Summer flounder on board these vessels must be stored so as to be readily available for inspection in standard 100-lb (45.3-kg) totes or fish boxes having a liquid capacity of 18.2 gal (70 L), or a volume of not more than 4,320 inches^3 (2.5 ft^3 or 70.79 cm^3).

■ 6. In § 648.108, revise paragraph (b) to read as follows:

§ 648.108 Summer flounder gear restrictions.

* * * * *

(b) *Exemptions.* Unless otherwise restricted by this part, the minimum mesh-size requirements specified in paragraph (a)(1) of this section do not apply to:

(1) A vessel issued a summer flounder moratorium permit that meets the requirements of paragraph (b)(1)(ii) of this section, fishing from November 1 through April 30 in the Small-Mesh Exemption Area, as defined in paragraph (b)(1)(i) of this section.

(i) *Small-Mesh Exemption Area.* The Small-Mesh Exemption Area is the area east or north, as appropriate, of a line that follows longitude 72°30′ W from the coast of Connecticut south to latitude 40°50.24′ N and then follows straight lines connecting the following points in the order stated until it intersects with the outer boundary of the U.S. EEZ (copies of a map depicting the area are available upon request from the Regional Administrator):

TABLE 1 TO PARAGRAPH (b)(1)(i)

Point	Latitude	Longitude
SMEA1	40°50.24′ N	72°30′ W
SMEA2	40°48.04′ N	72°37′ W
SMEA3	39°20′ N	72°37′ W
SMEA4	39°4.38′ N	72°47.22′ W
SMEA5	38°28.65′ N	73°29.37′ W
SMEA6	38°29.72′ N	73°30.65′ W
SMEA7	38°26.32′ N	73°33.44′ W
SMEA8	38°13.15′ N	73°49.77′ W
SMEA9	38°13.74′ N	73°50.73′ W
SMEA10	38°11.98′ N	73°52.65′ W
SMEA11	37°29.53′ N	74°29.95′ W
SMEA12	37°29.43′ N	74°30.29′ W
SMEA13	37°6.97′ N	74°40.8′ W
SMEA14	37°5.83′ N	74°45.57′ W
SMEA15	37°4.43′ N	74°41.03′ W
SMEA16	37°3.5′ N	74°40.39′ W
SMEA17	37° N	74°43′ W
SMEA18	37° N	72°30′ W
SMEA19	[a]	72°30′ W

[a] U.S. EEZ longitude, approximately 33°1.30′ N.

(ii) *Requirements.*

(A) A vessel fishing in the Summer Flounder Small-Mesh Exemption Area under this exemption must have on board a valid LOA issued by the Regional Administrator.

(B) The vessel must be enrolled in the exemption program for a minimum period, specified by the Regional Administrator, of up to 7 days.

(C) The vessel may not fish for any species outside of the Small-Mesh Exemption Area, as described in paragraph (b)(1)(i) of this section, during the time the LOA is effective. Vessels may resume fishing outside the Small-Mesh Exemption Area once the LOA has expired. Vessels may withdraw from the SMEP before the LOA expiration date in accordance with the terms outlined in the LOA. Vessels participating in the Small-Mesh Exemption Program in accordance with this section and § 648.4(a)(3)(iii) may transit the area west or south of the Small-Mesh Exemption Area if the vessel's fishing gear is stowed in a manner prescribed under § 648.108(e), so that it is not

''available for immediate use'' outside the exemption area.

(iii) *Evaluation and Termination.* If data indicate that vessels fishing under the Small-Mesh Exemption Program are discarding more than an average of 25 percent, by weight, of their entire catch of summer flounder per Small-Mesh Exemption Program trip, the Monitoring Committee shall coordinate or conduct a review of the exemption program. The review shall be completed no later than the next series of specifications setting or review meetings and presented to the ASMFC Summer Flounder, Scup and Black Sea Bass Management Board and MAFMC. After considering the Monitoring Committee's review and the recommendations of the Board and Council, the Regional Administrator may terminate the exemption for the remainder of the season or for the following exemption season. If the Regional Administrator makes such a determination, he/she shall publish notification of the termination in the **Federal Register**, in compliance with the requirements of the Administrative Procedure Act.

(2) A vessel fishing with an otter trawl fly net with the following configuration is exempt from the summer flounder minimum mesh size requirements, provided the vessel documents use of a flynet on its Vessel Trip Report (VTR) and has no other nets or netting with mesh smaller than 5.5 inches (14.0 cm) on board:

(i) *Configuration.*

(A) The net has large mesh in the wings that measures 8 inches (20.3 cm) or greater.

(B) The first body section (belly) of the net has at least 280 inches (711.2 cm) of mesh behind the sweep where the mesh size is at least 8 inches (20.3 cm).

(C) The mesh decreases in size throughout the body of the net toward the codend.

(ii) *Evaluation and Termination.* The Regional Administrator may terminate this exemption if he/she determines, after a review of relevant data, that the annual average summer flounder catch exceeds 1 percent of the annual average total catch from all vessels fishing under the exemption. If the Regional Administrator makes such a determination, he/she shall publish notification in the **Federal Register**, in compliance with the requirements of the Administrative Procedure Act, terminating the exemption for the remainder of the calendar year.

* * * * *

[FR Doc. 2026–08206 Filed 4–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260422–0109]

RIN 0648–BN59

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Framework Adjustment 19 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, and Framework Adjustment 7 to the Bluefish Fishery Management Plan

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS is implementing Framework Adjustment 19 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and Framework Adjustment 7 to the Bluefish FMP (together the ''Recreational Measures Setting Process Framework'') that make limited revisions to the process for setting recreational management measures and recreational accountability measures for summer flounder, scup, black sea bass, and bluefish.

DATES: Effective April 28, 2026. Comments must be received by May 28, 2026.

ADDRESSES: A plain language summary of this rule is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2025-0076.* You may submit comments on this document, identified by NOAA–NMFS–2025–0076, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2025–0076 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *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).

Copies of Framework Adjustment 19 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and Framework Adjustment 7 to the Bluefish Fishery Management Plan, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: *https://www.mafmc.org/actions/rec-measures-framework-addenda.*

FOR FURTHER INFORMATION CONTACT: Savannah Lewis, Fishery Management Specialist, (978) 281–9348, or *savannah.lewis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

NOAA's National Marine Fisheries Service (NMFS) is implementing the Recreational Measures Setting (RMS) Process Framework via this interim final rule (IFR) and request for comments. Together with NMFS, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, black sea bass, and bluefish fisheries. Updates to the FMPs are made with framework adjustments, and this action outlines and modifies the process for setting recreational management measures for all four stocks. The Council, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), provides its recommendations to NMFS. Under the provisions of the Magnuson-Stevens Act, on behalf of the Secretary of Commerce, the Greater Atlantic Regional Fisheries Office's Regional Administrator reviews proposed measures for consistency with the FMP, plan amendments, the Magnuson-Stevens Act, and other applicable law. The Council submitted this action, the RMS Process Framework, to NMFS for consideration of approval. NMFS reviewed the submitted frameworks for consistency with the goals and objectives of the FMPs and is approving and implementing Framework 19 and Framework 7.

The current Harvest Control Rule (88 FR 14499), which pioneered the Percent Change Approach, sunsetted on December 31, 2025. As explained in greater detail below, this action implements a revised replacement process for setting recreational measures (*i.e.,* bag, size, and season limits) called the RMS Process and revisions to the recreational accountability measures. This IFR outlines two phases of modification to the RMS Process Framework: Phase 1 would use a modified Percent Change Approach using the recreational harvest limit (RHL) and harvest; Phase 2 would use the same approach but will use the recreational annual catch target (ACT) and dead catch. In other words, RMS Process Phase 1 develops the Recreational Harvest Target (RHT) (which recreational measures are set to accomplish) using predicted harvest (*i.e.,* landed fish), and Phase 2 would shift to developing a recreational catch target (RCT), catch-based approach based on both harvest and dead discards. The use of the RMS Process for bluefish is delayed until the 2028–2029 specifications cycle. Bluefish is still under a rebuilding plan, and a supporting analytical model needs to be developed; further discussion of bluefish is provided below. Revisions to accountability measures for all four species are included to align with the RMS Process and give greater consideration to whether overfishing resulted from a recreational ACL overage.

This action revises and improves upon the process for setting recreational measures that continues to prevent overfishing, reflect stock status, account for uncertainty in recreational data, take into consideration angler preferences, consider discard information, and provide sufficient stability and predictability. While it is impossible to put an exact number on the total economic impact of the specific affected recreational fisheries, they comprise a large component of the $3.6 billion recreational fishing industry in the Mid-Atlantic region. This action allows for these recreational fisheries to maintain flexibility and continue to be a major economic driver in the region.

Key Terms

- *Annual Catch Target (ACT):* An amount of annual catch that is a management target for a fishery that accounts for management uncertainty and is set at or below the annual catch limit (ACL). The ACT includes both landings and dead discards (*i.e.,* total dead catch or catch), and the RHL is derived from the recreational ACT by subtracting dead discards.
- *Biomass (B):* The size of a stock of fish measured in weight. For summer flounder, scup, black sea bass, and bluefish, the biomass levels and biomass targets used in management are based on spawning stock biomass (SSB).
- *Biomass target (B_{MSY}):* The stock size (B) associated with maximum sustainable yield (MSY) as defined by a stock assessment. MSY is the largest average catch that can be taken from a stock at B_{MSY} over time under existing environmental conditions without negatively impacting the reproductive capacity of the stock.
- *Catch:* The total amount of fish caught by the fishery, including landed fish and dead discards.
- *Confidence Interval (CI):* The upper and lower bound around a point estimate to indicate the range of possible values given the uncertainties around the estimate.
- *Harvest:* The total amount of fish landed by the fishery.
- *Recreational Harvest Limit (RHL):* The total allowable annual recreational fishery harvest limit set based on information from the stock assessment, considerations about scientific and management uncertainty, allocations between the commercial and recreational sectors, and assumptions about dead discards from the recreational fishery.
- *Recreational Catch Target (RCT):* The amount of catch that recreational management measures aim to achieve but not exceed.
- *Recreational Harvest Target (RHT):* The amount of harvest that the recreational management measures aim to achieve but not exceed.

Recreational Management Challenges

Prior to 2023, recreational management measures were set annually to allow harvest to achieve but not exceed the RHL. Analysis to determine the measures relied heavily on data from the Marine Recreational Information Program (MRIP), NMFS's state-regional-Federal partnership that uses a national network of recreational fishing surveys to estimate total recreational catch and effort. While the program has been peer-reviewed multiple times and the agency continues to explore improvements, there are inherent uncertainties within the MRIP data because they rely on angler feedback and estimation calculations to provide managers and scientists with recreational information. The estimates have been shown to be highly variable and uncertain in some years, creating a situation in which correct and consistent estimates of recreational harvest can be difficult to obtain. In 2018, MRIP transitioned to the Fishing Effort Survey (FES) from the Coastal Household Telephone Survey (CHTS) due to a decline in landline telephones. This transition required historical catch estimates to be recalibrated to align with the new FES, resulting in significant increases in estimates of past catch for several species; for example, estimates of black sea bass average historical catch increased 73 percent. These increases broadly impacted the management process through stock assessments, reference points, catch limits, and management measures.

The underlying uncertainty and high variability of MRIP data, reactively setting measures annually, and lack of consideration for stock status led to frequent changes in bag, size, and season limits. For abundant stocks of black sea bass and scup, stock assessments repeatedly underestimated stock size and overestimated fishing mortality, resulting in the stock size subsequently being revealed as higher, and fishing mortality lower, in subsequent assessments. The outcome of this pattern was catch limits that were set lower than what was actually available to the fishery and years where even restrictive management measures resulted in higher-than-anticipated harvest, often with increasing levels of discards, even without overfishing occurring. For example, in 2022, black sea bass recreational measures were set to achieve but not exceed the 2022 RHL of 6.74 million lb (3,055 metric tons (mt)); this was equal to a 20.7-percent reduction in harvest from the prior year. At that time, however, the stock was not experiencing overfishing, and the biomass was estimated to be at 210 percent of the target (87 FR 35112; June 9, 2022). This dynamic was frustrating for participants in the recreational fisheries and related businesses and led to enforcement issues along the mid-Atlantic coast. It was also apparent that the process was not adequately balancing the need to prevent overfishing while trying to achieve optimal yield (OY).

Scup and black sea bass also tended to meet or exceed their RHLs frequently and, at times, exceeded even the recreational ACL, acceptable biological catch (ABC), and/or the overfishing limit (OFL). Often, these high catch levels would require restrictions on fishing in an attempt to bring harvest down—regardless of high stock status. Alternatively, for a stock such as summer flounder with a much lower biomass than scup and black sea bass, liberalization in management measures

that were implemented to try and achieve the RHL may not have been appropriate due to a low biomass. Termed ''chasing the RHL,'' the required changes in measures appeared to be more in response to variability and uncertainty in recreational harvest data than a conservation need.

Overview of the Percent Change Approach

The Percent Change Approach, implemented in 2023, aimed to address these issues by considering recreational harvest data, accounting for the uncertainty in the recreational harvest data through the use of confidence intervals around predicted recreational harvest, and taking into account stock biomass when determining if and how management measures should be changed. As described below, the approach considered these factors to establish a recreational target that measures are set to achieve. The overall goal of the Percent Change Approach was to iteratively adjust management measures to eventually achieve the RHL while avoiding unnecessarily severe restrictions or inappropriate liberalizations on fishing that could result from annual variability in harvest estimates rather than conservation need. Given the significant shift in the process for setting recreational management measures, the Percent Change Approach included a sunset provision of 3 years. After accepting public comment on Framework 17 and Framework 6, which initiated the Percent Change Approach, (87 FR 76600; December 15, 2022), NMFS finalized the framework in 2023 (88 FR 14499; March 9, 2023). The U.S. District Court for the District of Columbia held that Framework 17 complied with the MSA and the Administrative Procedure Act (APA) in *Natural Resources Defense Council* v. *Raimondo,* No. 23–982 (BAH), 2024 WL 4056653 (D.D.C. Sept. 5, 2024). In 2024, both scup and black sea bass harvest were under the respective RHLs and recreational ACLs, suggesting that the Percent Change Approach is likely more appropriately setting recreational management measures than the earlier approach. The Percent Change Approach sunsetted in December 2025.

In light of the positive results obtained using the Percent Change Approach, the Council and Commission recommended to NMFS that it be extended with relatively minor changes as effectuated in this interim final rule. NMFS agrees, as the approach has proven to be successful in achieving management goals, and the minor changes represent improvements to the process gained through application and feedback.

This action modifies the process for setting recreational management measures for summer flounder, scup, black sea bass, and bluefish, including how to determine if and when management measures need to be changed, the amount of change that would be allowed/required, and the timing of the overall process. As provided in this interim final rule, the RMS Process will continue to utilize the Percent Change Approach methodology with some revisions. The revised process will have two phases. Operationally, Phase 1 and Phase 2 of the process function the same way; the difference between the two is that Phase 1 uses recreational *harvest* compared to the RHL to set measures, whereas Phase 2 uses *total dead catch* compared to the recreational ACT. An overview of the methodology used for both is provided below.

Step 1: Estimating Recreational Harvest or Total Dead Catch

Step one of the RMS Process involves estimating the recreational harvest (in Phase 1) or total dead catch (in Phase 2) that would result if current management measures continued in force in the next fishing year. The amount of expected recreational harvest and total dead catch are difficult to predict, as they are influenced by many factors beyond just the management measures, including fishing effort, availability of various target species, economic factors, and weather. Harvest and discard estimates can vary notably from year to year even under the same set of management measures. The Recreational Demand Model, which has been used for setting recreational summer flounder, scup, and black sea bass measures since 2023, produces estimates of discarded fish as well as harvest. While bluefish currently does not have a similar model, work is ongoing to develop one in time for management use in 2028.

In addition to estimating harvest or dead catch, the confidence interval (CI) around the recreational harvest or dead catch estimate will also be generated. When developing a CI, the Commission's Plan Development Team and Council's Fishery Management Action Team (the technical teams involved in the development of the action) recommended the use of a joint distribution, 80-percent confidence interval that takes into consideration the percent standard error (PSE) of each individual year's MRIP estimate and the variability of the estimates between years. While 80-percent confidence intervals were recommended during development of both the original Percent Change Approach and the new RMS Process, the Council's Technical Committee and Commission's Monitoring Committee will periodically review the confidence intervals to ensure they are appropriate for the current model as improvements are made and data updated. Once the estimated harvest or dead catch and confidence intervals are developed and produce a range of anticipated harvest or dead catch, that estimate is compared to the future RHL or recreational ACT to determine whether the estimate will likely be below, at, or above the RHL or recreational ACT. Step 1 corresponds to the first column in the two tables presented below.

Step 2: Biomass Comparison

The second step in the process is the evaluation of the stock biomass; for both Phase 1 and Phase 2, this step remains the same. The most recent stock assessment will be used to determine the biomass relative to the biomass target (B_{MSY} or the relevant proxy). If the biomass is at least 150 percent of the target, the stock will be considered very high; if the stock is between 150 and 110 percent of the target, it will be considered high; stocks that have a biomass between 110 percent and 90 percent will be considered around the target; and stocks with a biomass below 90 percent of the target size will be categorized as low. Step 2 corresponds to the second columns of the two tables below.

Step 3: Determining the Percent Change

Considered together, the harvest (during Phase 1) or dead catch (during Phase 2) and current biomass compared to the target biomass determine the appropriate degree of change in the following measures setting cycle. Specifically, comparing the anticipated harvest (in Phase 1) or dead catch (in Phase 2) and the estimated biomass determines a percentage change in the harvest or total dead catch target, which may be a liberalization, a reduction, or no change. The percentage change is then applied to the expected recreational harvest established in Step 1 to calculate the RHT during Phase 1 or applied to the recreational catch to calculate the RCT during Phase 2. Recreational management measures are then set to target the RHT or RCT rather than the RHL or recreational ACT. The maximum potential liberalization or reduction are capped for each biomass status as represented in the third column of the two tables below.

Recreational Measures Setting Process

Phase 1: Modified Percent Change Approach Using the RHL and Harvest

The first phase of this action modifies the existing Percent Change Approach process for setting recreational management measures for summer flounder, scup, black sea bass, and bluefish. The revision adds the following:

- an additional biomass category of around the target and revising the biomass percentages for each category;
- treating overfished stocks separately with a new classification category (last two rows); and
- three opportunities for status quo recreational management measures compared to just one in the previous process.

The process will continue to use two factors to determine whether management measures could remain status quo, could be liberalized, or must be restricted. These two factors are:

- Comparison of a confidence interval around an estimate of expected harvest under status quo measures to the average RHL for the upcoming 2 years; and
- Biomass compared to the target level as defined by the most recent stock assessment.

These two factors will also determine the appropriate degree of change to recreational management measures, defined as a percentage change in expected harvest. Table 1 shows the revised process.

TABLE 1—PHASE 1 MANAGEMENT RESPONSE TABLE (RHL AND HARVEST)

Factors to determine recommended change		Change in Expected Harvest
(1) Future RHL vs Harvest Estimate	(2) Stock biomass compared to the target stock size (B/BMSY)	
Future 2-year average RHL is greater than the upper bound of the harvest estimate confidence interval (catch is expected to be lower than the RHL).	Very high (at least 150% of the target stock size).	Liberalization: percentage change based on the difference between the harvest estimate and the 2-year average RHL, not to exceed 40%.
	High (greater than or equal to 110% and less than 150%).	Liberalization: percentage change based on the difference between the harvest estimate and the 2-year average RHL, not to exceed 20%.
	Around the Target (greater than or equal to 90% and less than 110%).	Liberalization: 10%.
	Low (greater than or equal to 50% and less than 90%).	No Liberalization or Reduction: 0%.
Future 2-year average RHL is within the confidence interval of the harvest estimate (harvest is expected to be close to the RHL).	Very high to Low (greater than 50%).	No Liberalization or Reduction: 0%.
Future 2-year average RHL is less than the lower bound of the harvest estimate confidence interval (harvest is expected to exceed the RHL).	Very high (at least 150% of the target stock size).	No Liberalization or Reduction: 0% unless an accountability measure is triggered.
	High (greater than or equal to 110% and less than 150%).	Reduction: 10%.
	Around the Target (greater than or equal to 90% and less than 110%).	Reduction: percentage change based on the difference between harvest estimate and 2-year average RHL, not to exceed 20%.
	Low (greater than or equal to 50% and less than 90%).	Reduction: percentage change based on the difference between the harvest estimate and the 2-year average RHL, not to exceed 40%.
	Biomass compared to target (SSB/SSB_{MSY}).	Change in Harvest.
No comparison made	Overfished (less than 50% of target).	No liberalizations allowed. Reduction % = difference between catch estimate and 2-year avg. RHL. To be replaced with rebuilding plan measures as soon as possible.

Phase 2: Modified Percent Change Approach Using the Recreational ACT and Catch

The second phase of this action, effective for the 2030 specifications cycle and beyond, will continue the modified Percent Change Approach using the recreational ACT and total dead catch instead of the RHL and harvest to determine if recreational management measures should change. Using the recreational ACT means that adjustments to management measures would consider all predicted recreational dead catch rather than harvest alone.

The revised process would use two factors to determine if management measures could remain status quo, could be liberalized, or must be restricted. These two factors are:

- Comparison of a confidence interval around an estimate of expected catch under status quo measures to the average recreational ACT for the upcoming 2 years; and
- Biomass compared to the target level as defined by the most recent stock assessment.

These two factors also determine the appropriate degree of change to recreational management measures, defined as a percentage change in expected catch. Table 2 shows the management response table with recreational ACT and catch replacing RHL and harvest.

TABLE 2—PHASE 2 MANAGEMENT RESPONSE TABLE (RECREATIONAL ACT AND CATCH)

Factors to determine recommended change		Change in Expected Catch
(3) Future ACT vs Catch Estimate	(4) Stock biomass compared to the target stock size (B/BMSY)	
Future 2-year average ACT is greater than the upper bound of the catch estimate confidence interval (catch is expected to be lower than the ACT).	Very high (at least 150% of the target stock size).	Liberalization: percent based on the difference between the catch estimate and the 2-year average ACT, not to exceed 40%.
	High (greater than or equal to 110% and less than 150%).	Liberalization: percent based on the difference between the catch estimate and the 2-year average ACT, not to exceed 20%.
	Around the Target (greater than or equal to 90% and less than 110%).	Liberalization: 10%.
	Low (greater than or equal to 50% and less than 90%).	No Liberalization or Reduction: 0%.
Future 2-year average ACT is within the confidence interval of the catch estimate (catch is expected to be close to the ACT).	Very high to Low (greater than 50%).	No Liberalization or Reduction: 0%.
Future 2-year average ACT is less than the lower bound of the catch estimate confidence interval (catch is expected to exceed the ACT).	Very high (at least 150% of the target stock size).	No Liberalization or Reduction: 0% unless an accountability measure is triggered.
	High (greater than or equal to 110% and less than 150%).	Reduction: 10%.
	Around the Target (greater than or equal to 90% and less than 110%).	Reduction: percent change based on the difference between catch estimate and 2-year average ACT, not to exceed 20%.
	Low (greater than or equal to 50% and less than 90%).	Reduction: percent based on the difference between the catch estimate and the 2-year average ACT, not to exceed 40%.
	Biomass compared to target (SSB/SSB_{MSY}).	Change in Catch.
No comparison made	Overfished (less than 50% of target).	No liberalizations allowed. Reduction % = difference between catch estimate and 2-year avg. ACT. To be replaced with rebuilding plan measures as soon as possible.

Measure Setting Timing

As with Framework 17 and Framework 6, the RMS Process will adjust measures in conjunction with the setting of catch and landings limits in response to updated stock assessment information, which is currently a 2-year cycle. Updated stock assessments are anticipated to be available biennially for all four species. In the interim year (or years, if stock assessment frequency changes), measures will be reviewed and may be modified if new data suggest a major change in the expected impacts of those measures on the stock or the fishery.

Phase Shift

Phase 1 of the RMS Process functions similar to the previous version of the Percent Change Approach. The Council and Commission will rely on the modified Percent Change Approach using the RHL and harvest estimates while additional years of data are collected to understand how using total dead catch will impact management measures. For the 2030 specifications, the RMS Process will shift to Phase 2 and begin using the recreational ACT and dead catch estimates to set the RCT, which management measures are designed to achieve but not exceed. The transition to Phase 2 is not contingent on the outcome of additional analysis nor will it require another rulemaking process; if the Council and Commission want to use a different process, they would need to complete a new recommendation for management action.

Bluefish

Bluefish has been under a rebuilding plan since 2022, and because the rebuilding plan overlaps with the timeline for the Percent Change Approach and RMS Process development, bluefish will continue to have measures set based on the rebuilding plan until the stock is rebuilt, which is estimated to be in 2028. The Council and Commission recommended, and NMFS agreed, to delay implementation of Phase 1 of the RMS Process and corresponding accountability measure changes for bluefish until 2028. This delay is to allow time for the stock to complete rebuilding and for the development of an appropriate methodology for evaluating the impacts of measures on bluefish harvest and discards in the RMS Process. Bluefish will transition to Phase 2 in 2030 with the other three species.

Recreational Accountability Measures

This interim final rule makes minimal to no changes to how recreational accountability measures are triggered compared to current requirements. Recreational accountability measures are still triggered if the most recent three-year average recreational catch exceeds the most recent three-year average recreational ACL for summer flounder, scup, and black sea bass. If triggered, accountability measures apply under all outcomes illustrated in tables 1 and 2.

The changes to the recreational accountability measures give greater consideration to whether overfishing occurred as a result of a recreational ACL overage when determining the appropriate response. A pound-for-pound payback is still required when any stock is overfished or under a rebuilding plan or the biomass is below 50 percent of B_{MSY}. When the stock is above 50 percent of B_{MSY}, not overfished, and/or not under a rebuilding plan, either a scaled payback is required or measures may be modified, depending on the biomass level. The accountability measures also

include wording to better explain how they would work under different combinations of fishing mortality and stock status. These changes incorporate stock status when applying accountability measures and also provide a consideration of stability in measures and to achieve optimum yield.

While revisions to the bluefish accountability measures will not be effective until 2028, they are included in this rule. Until January 1, 2028, the current bluefish accountability measure regulations at 50 CFR 648.163(d) continue to be in effect, and after that the new measures will take effect. The revised bluefish accountability measures compare total catch (landings and dead discards) with the most recent 3-year average recreational ACL, unless there has been a transfer between the recreational and commercial sectors; if there has been a transfer, then the most recent single-year recreational catch to recreational ACL comparison is used.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Assistant Administrator has determined that this interim final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass, and Bluefish FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

This interim final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This interim final rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity for public comment on this action because the time necessary to provide such prior notice and opportunity for public comment would be contrary to the public interest.

Framework 17 and Framework 6 sunsetted in December 2025. As set forth above, the Percent Change Approach established by these frameworks and used in the development of recreational management measures from 2023 to 2025 has provided better management results than the prior approach; for example, in 2024 black sea bass recreational harvest and dead catch were under the RHL and recreational ACL, respectively, for the first time in 5 years. Framework 17 was challenged in litigation, and the court held that the Percent Change Approach and the implementing regulations satisfied applicable MSA and APA requirements. (*Natural Resources Defense Council* v. *Raimondo,* No. 23–982 (BAH), 2024 WL 4056653 (D.D.C. Sept. 5, 2024)).

Framework 19 and Framework 7 make relatively minor changes to Framework 17 and Framework 6, both of which were themselves subject to notice and comment. NMFS is making changes to Frameworks 17 and 6 based on public and industry feedback after a few years of using those frameworks with the goal of improving efficiency while providing additional stability for fishery participants. As discussed above, the changes include an additional biomass category, an increase in ''no change'' opportunities, and consideration of overfished stocks separately. The public is now familiar with how the system operates because the process outlined in Framework 17 was used to manage the summer flounder, scup, and black sea bass fisheries during the 2023 to 2025 fishing years. Managers, commercial industry representatives, and recreational fishing participants have expressed broad support for the timely continuation of this process with the changes included in this action. The continuation of the RMS Process with slight revisions via this interim final rule is highly anticipated.

If Framework 19 for summer flounder, scup, and black sea bass is not effective immediately, measures for 2026 will remain the 2025 Federal coastwide measures. Making Framework 19 effective immediately will allow for NMFS to instead set 2026–2027 recreational management measures (established via a separate interim final rule to be published as soon as possible) that are consistent with Framework 19 by the beginning of the applicable 2026 recreational fishing seasons. Because the 2026–2027 recreational management measures must be implemented under the process and methodology established by Framework 19, this interim final rule must be effective before those recreational management measures can be promulgated.

Delaying the implementation of this rule while accepting public comment would result in significant negative economic impacts on fishing communities and for-hire business owners, as well limitations on the fishing experience of anglers, without providing concomitant conservation benefits. By default, Federal for-hire permit holders must comply with more restrictive coastwide measures (50 CFR 648.4(b)). Routinely, the recreational management measures rulemaking applicable to a given year or years waives Federal coastwide measures for summer flounder and black sea bass in favor of state regulations through conservation equivalency, which allows states to set measures tailored to their fishing communities' needs while resulting in the same conservation benefit as would accrue from the coastwide measures. The recreational fishing seasons for black sea bass in the southern states within the Greater Atlantic Region, such as Maryland and Delaware, open on May 1, 2026. The current coastwide measures, which cannot be waived in favor of state measures until the 2026–2027 recreational management measures rulemaking is effective, do not open the season until May 15, 2026.

Additionally, the minimum size for black sea bass in Federal waters would be 2.5 inches (6.35 cm) longer with a bag limit of 10 fewer fish than what would be in place for some states' waters. Undertaking notice and comment on this rulemaking would prevent Federal for-hire permit holders from undertaking fishing trips they have already booked for the first 15 days in May and impose more restrictive size and bag limits on all anglers for no conservation purpose.

Moreover, because of differences in how and when black sea bass become available to anglers along the coast, the application of the default coastwide measures that would be required to allow for notice and comment would impact the various states differently, resulting in inequity largely between northern and southern anglers. For example, the opening date for black sea bass in Massachusetts is anticipated to be May 17, 2026, compared to May 1, 2026, for Maryland, where black sea bass are available earlier than in waters farther north. Leaving in place the coastwide measures, which open the fishing season on May 15, 2026, would have less of an impact on states that open their fisheries later. Thus, delaying implementation of this interim final rule would have inequitable impacts along the eastern seaboard.

Immediate implementation of this rule would enable NMFS (via the related 2026–2027 recreational management measures rulemaking that will follow this one) to approve conservation equivalency after review of the Commission-certified conservationally equivalent state measures, as described above, for the mid-Atlantic states of Massachusetts through North Carolina. Conservation equivalency allows for consistent recreational measures in state and Federal waters, clarifying requirements for anglers, increasing compliance, and avoiding enforcement issues while allowing measures tailored to the needs of each state.

We are inviting public comment on this interim final rule, and we will consider responding to any comments received in a subsequent final rule addressing both this interim final rule and the interim final rule establishing the 2026 and 2027 summer flounder, scup, and black sea bass recreational management measures (RIN 0648–BO39) if warranted. In the meantime, it is contrary to the public interest to provide the opportunity for public comment prior to making Framework 19 and Framework 7 effective. For the same reasons, there is good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). In addition, the regulated community is anticipating the implementation of 2026–2027 recreational management measures consistent with the frameworks approved via this interim final rule and thus does not require 30 days to come into compliance with this rule.

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 E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2) of E.O. 13175 is not required and has not been prepared.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 23, 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 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. Amend § 648.102 by revising paragraph (d)(2)(ii) to read as follows:

§ 648.102 Summer flounder specifications.

* * * * *

(d) * * *

(2) * * * (ii) The ASMFC will review conservation equivalency proposals and determine whether or not they achieve the necessary recreational target. The ASMFC will provide the Regional Administrator with the individual State and/or multi-State region conservation measures for the approved State and/or multi-State region proposals and, in the case of disapproved State and/or multi-State region proposals, the precautionary default measures that should be applied to a State or region. At the request of the ASMFC, precautionary default measures would apply to federally permitted party/charter vessels and other recreational fishing vessels harvesting summer flounder in or from the EEZ when landing in a State that implements measures not approved by the ASMFC.

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■ 3. Amend § 648.103 by revising paragraph (d) to read as follows:

§ 648.103 Summer flounder accountability measures.

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(d) *Recreational AMs.* If the most recent 3-year average recreational ACL is exceeded, then the following procedure will be followed:

(1) *If biomass is below the threshold, the stock is under rebuilding, or biological reference points are unknown.* If the most recent estimate of biomass is below the B_{MSY} threshold (*i.e.,* B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown and the most recent 3-year average recreational ACL has been exceeded, then the exact amount, in pounds, by which the most recent 3-year average recreational catch estimate exceeded the most recent 3-year average recreational ACL will be deducted, in the following fishing year, or as soon as possible, thereafter, once catch data are available, from the recreational ACT. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(2) *If biomass is above the threshold, but below 90% of the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below 90 percent of the biomass target (B/B_{MSY} is less than 0.9), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no Accountability Measure response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then an adjustment to the recreational ACT will be made as soon as possible, once catch data are available, as described in paragraph (d)(2)(ii)(A) of this section. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(A) *Adjustment to Recreational ACT.* If an adjustment to the following year's Recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the most recent 3-year average recreational catch and the most recent 3-year recreational ACL, and the payback coefficient, as specified in paragraph (d)(2)(ii)(B) of this section. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(B) *Payback coefficient.* The payback coefficient is the difference between the most recent estimate of biomass and B_{MSY} (*i.e.,* $B_{MSY} - B$) divided by one-half of B_{MSY}. (3) *If biomass is greater than or equal to 90 percent of B_{MSY} (B/B_{MSY} is 0.9 or greater).* If the most recent estimate of biomass is greater than or equal to 90 percent of the target B_{MSY} (*i.e.,* B/B_{MSY} is 0.9 or greater), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no AM response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded the F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or

the proxy), then an adjustment to recreational measures may be made for the following year, or as soon as possible once catch data are available. Adjustments should take into account the performance of the measures and conditions that precipitated the overage. If recreational measures would otherwise be liberalized following the process as prescribed in the FMP, then the scale of the liberalization may be reduced, or status quo measures may be used, to account for the AM. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

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■ 4. Amend § 648.123 by revising paragraph (d) to read as follows:

§ 648.123 Scup accountability measures.

* * * * *

(d) *Recreational AMs.* If the most recent 3-year average recreational ACL is exceeded, then the following procedure will be followed:

(1) *If biomass is below the threshold, the stock is under rebuilding, or biological reference points are unknown.* If the most recent estimate of biomass is below the B_{MSY} threshold (*i.e.,* B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown, and the most recent 3-year average recreational ACL has been exceeded, then the exact amount, in pounds, by which the most recent 3-year average recreational catch estimate exceeded the most recent 3-year average recreational ACL will be deducted in the following fishing year, or as soon as possible, thereafter, once catch data are available, from the recreational ACT. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(2) *If biomass is above the threshold, but below 90 percent of the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below 90 percent of the biomass target (B/B_{MSY} is less than 0.9), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no AM response is required. If an estimate of total fishing mortality for the most recent complete year of catch data is not available, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then an adjustment to the recreational ACT will be made as soon as possible once catch data are available, as described in paragraph (d)(2)(ii)(A) of this section. If an estimate of total fishing mortality for the most recent complete year of catch data is not available, then a comparison of total catch relative to the ABC will be used.

(A) Adjustment to Recreational ACT. If an adjustment to the following year's Recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the most recent 3-year average recreational catch and the most recent 3-year recreational ACL, and the payback coefficient, as specified in paragraph (d)(2)(ii)(B) of this section. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(B) *Payback coefficient.* The payback coefficient is the difference between the most recent estimate of biomass and B_{MSY} (*i.e.,* $B_{MSY} - B$) divided by one-half of B_{MSY}. (3) *If biomass is greater than or equal to 90 percent of the biomass target (B/B_{MSY} is 0.9 or greater).* If the most recent estimate of biomass is greater than or equal to 90 percent of the target B_{MSY} (*i.e.,* B/B_{MSY} is 0.9 or greater), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no AM response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded the F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then an adjustment to recreational measures may be made for the following year, or as soon as possible once catch data are available. Adjustments should take into account the performance of the measures and conditions that precipitated the overage. If recreational measures would otherwise be liberalized following the process as prescribed in the FMP, then the scale of the liberalization may be reduced, or status quo measures may be used, to account for the AM. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

* * * * *

■ 5. Amend § 648.143 by revising paragraph (d) to read as follows:

§ 648.143 Black sea bass accountability measures.

* * * * *

(d) *Recreational AMs.* If the most recent 3-year average recreational ACL is exceeded, then the following procedure will be followed:

(1) *If biomass is below the threshold, the stock is under rebuilding, or biological reference points are unknown.* If the most recent estimate of biomass is below the B_{MSY} threshold (*i.e.,* B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown, and the most recent 3-year average recreational ACL has been exceeded, then the exact amount, in pounds, by which the most recent 3-year average recreational catch estimate exceeded the most recent 3-year average recreational ACL will be deducted in the following fishing year, or as soon as possible thereafter, once catch data are available, from the recreational ACT. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(2) *If biomass is above the threshold, but below 90 percent of the biomass target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below 90 percent of the biomass target (B/B_{MSY} is less than 0.9), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no Accountability Measure response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then an adjustment to the recreational ACT will be made as soon as possible once catch data are available, as described in paragraph

(d)(2)(ii)(A) of this section. If an estimate of total fishing mortality for the most recent complete year of catch data is not available, then a comparison of total catch relative to the ABC will be used.

(A) Adjustment to Recreational ACT. If an adjustment to the following year's Recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the most recent 3-year average recreational catch and the most recent 3-year recreational ACL, and the payback coefficient, as specified in paragraph (d)(2)(ii)(B) of this section. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(B) *Payback coefficient.* The payback coefficient is the difference between the most recent estimate of biomass and B_{MSY} (*i.e.,* $B_{MSY} - B$) divided by one-half of B_{MSY}. (3) *If biomass is greater than or equal to 90 percent of the biomass target (B/B_{MSY} is 0.9 or greater).* If the most recent estimate of biomass is greater than or equal to 90 percent of the target B_{MSY} (*i.e.,* B/B_{MSY} is 0.9 or greater), the stock is not under a rebuilding plan, and the most recent 3-year average recreational ACL has been exceeded, then the following AMs will apply:

(i) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no AM response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(ii) *If F has exceeded the F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then an adjustment to recreational measures may be made for the following year, or as soon as possible once catch data are available. Adjustments should take into account the performance of the measures and conditions that precipitated the overage. If recreational measures would otherwise be liberalized following the process as prescribed in the FMP, then the scale of the liberalization may be reduced, or status quo measures may be used, to account for the AM. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

* * * * *

■ 6. Revise § 648.163 to read as follows:

§ 648.163 Bluefish Accountability Measures (AMs).

(a) *ACL overage evaluation.* The ACLs will be evaluated based on a single-year examination of total catch (landings and dead discards). Both landings and dead discards will be evaluated in determining if the ACLs have been exceeded. Effective January 1, 2028, for the recreational fishery, this comparison will be based on the most recent 3-year average recreational ACL if there were no commercial/recreational transfers as outlined in § 648.162(b)(2) during those years. If a transfer occurred in those years, the recreational ACL overage evaluation will be based on the single most recent year.

(b) *Commercial sector EEZ closure.* NMFS shall close the EEZ to fishing for bluefish by commercial vessels for the remainder of the calendar year by publishing notification in the **Federal Register** if the Regional Administrator determines that the inaction of one or more states will cause the ACL specified in § 648.160(a) to be exceeded, or if the commercial fisheries in all states have been closed. NMFS may reopen the EEZ if earlier inaction by a state has been remedied by that state, or if commercial fisheries in one or more states have been reopened without causing the ACL to be exceeded.

(c) *State commercial landing quotas.* The Regional Administrator will monitor state commercial quotas based on dealer reports and other available information and shall determine the date when a state commercial quota will be harvested. NMFS shall publish notification in the **Federal Register** advising a state that, effective upon a specific date, its commercial quota has been harvested and notifying vessel and dealer permit holders that no commercial quota is available for landing bluefish in that state.

(1) *Commercial landings overage repayment.* All bluefish landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the bluefish were harvested. Any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year, irrespective of whether the fishery-level ACL is exceeded. If a state has increased or reduced quota through the transfer process described in *§ 648.162,* then any overage will be measured against that state's final adjusted quota.

(2) *Combined quota overage.* If there is a quota overage at the end of the fishing year among states involved in the combination of quotas, the overage will be deducted from the following year's quota for each of the states involved in the combined quota, irrespective of whether the fishery-level ACL is exceeded. The deduction will be proportional, based on each state's relative share of the combined quota for the previous year. A transfer of quota or combination of quotas does not alter any state's percentage share of the overall quota specified in *§ 648.162(d)(1).*

(d) *Recreational AM when the recreational ACL is exceeded and no sector-to-sector transfer of allowable landings has occurred.* Through December 31, 2027, the accountability measures under paragraphs (d)(1) to (d)(3) of this section will apply if the recreational ACL is exceeded and no transfer between the commercial and recreational sector was made for the fishing year, as outlined in § 648.162(b)(2), and the following procedure will be followed:

(1) *If biomass is below the threshold, the stock is under rebuilding, or biological reference points are unknown.* If the most recent estimate of biomass is below the B_{MSY} threshold (*i.e.,* B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown, and the recreational ACL has been exceeded, then the exact amount, in pounds, by which the most recent year's recreational catch estimate exceeded the most recent year's recreational ACL will be deducted from the following year's recreational ACT, or as soon as possible thereafter, once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(2) *If biomass is above the threshold, but below the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below the biomass target (B/B_{MSY} is less than 1.0), and the stock is not under a rebuilding plan, then the following AMs will apply:

(i) *If the recreational ACL has been exceeded.* If the recreational ACL has been exceeded, then adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment.

(ii) *If the fishing mortality (F) has exceeded FMSY (or the proxy).* If the most recent estimate of total fishing mortality exceeds FMSY (or the proxy) then an adjustment to the recreational ACT will be made as soon as possible

once catch data are available. If an estimate of total fishing mortality for the most recent complete year of catch data is not available, then a comparison of total catch relative to the ABC will be used.

(A) *Adjustment to Recreational ACT.* If an adjustment to the following year's Recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the recreational ACL overage and the payback coefficient, as specified in *paragraph (d)(2)(ii)(B)* of this section. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(B) *Payback coefficient.* The payback coefficient is the difference between the most recent estimates of B_{MSY} and biomass (*i.e.,* $B_{MSY} - B$) divided by one-half of B_{MSY}.

(3) *If biomass is above BMSY.* If the most recent estimate of biomass is above BMSY (*i.e.,* B/BMSY is greater than 1.0), then adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment.

(e) *Effective January 1, 2028.* For the recreational fishery, revised Recreational Accountability Measures and ACL overage evaluations will be effective January 1, 2028. The ACL comparison, and any associated payback amounts, will be based on the most recent 3-year average recreational ACL if there were no commercial/recreational transfers as outlined in § 648.162(b)(2) during those years. If a transfer occurred in those years, the recreational ACL overage evaluation, and any associated payback amounts, will be based on the single most recent year.

(1) *Recreational AM when the recreational ACL is exceeded.* If it has been determined that the recreational ACL is exceeded as described in § 648.163(e) then the following procedure will be followed:

(i) *If biomass is below the threshold, the stock is under rebuilding, or biological reference points are unknown.* If the most recent estimate of biomass is below the B_{MSY} threshold (*i.e.,* B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown, and the recreational ACL has been exceeded, then the exact amount, in pounds, by which the recreational catch estimate exceeded the recreational ACL will be deducted from the following year's recreational ACT, or as soon as possible thereafter, once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(ii) *If biomass is above the threshold, but below 90 percent of the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below 90 percent of the biomass target (B/B_{MSY} is less than 0.9), the stock is not under a rebuilding plan, and the recreational ACL has been exceeded, then the following AMs will apply:

(A) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality has not exceeded F_{MSY} (or the proxy), then no Accountability Measure response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(B) *If F has exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy) then an adjustment to the recreational ACT will be made as soon as possible once catch data are available. If an estimate of total fishing mortality for the most recent complete year of catch data is not available, then a comparison of total catch relative to the ABC will be used.

(*1*) *Adjustment to Recreational ACT.* If an adjustment to the following year's recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the recreational ACL overage and the payback coefficient, as specified in paragraph (e)(1)(ii)(B)(*2*) of this section. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational management measures across the upcoming 2 years.

(*2*) *Payback coefficient.* The payback coefficient is the difference between the most recent estimates of B_{MSY} and biomass (*i.e.,* $B_{MSY} - B$) divided by one-half of B_{MSY}.

(iii) *If biomass is greater than or equal to 90 percent of the biomass target (B_{MSY} is 0.9 or greater).* If the most recent estimate of biomass is greater than or equal to 90 percent of the target B_{MSY} (*i.e.,* B/B_{MSY} is 0.9 or greater), the stock is not under a rebuilding plan, and recreational ACL has been exceeded, then the following AMs will apply:

(A) *If fishing mortality (F) has not exceeded F_{MSY} (or the proxy).* If the most recent total F estimate has not exceeded F_{MSY} (or the proxy), then no AM response is required. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(B) *If F has exceeded F_{MSY} (or the proxy).* If the most recent estimate of total fishing mortality exceeds F_{MSY} (or the proxy), then adjustments to recreational measures may be made for the following year, or as soon as possible once catch data are available. Adjustments should take into account the performance of the measures and conditions that precipitated the overage. If recreational management measures would otherwise be liberalized following the process as prescribed in the FMP, then the scale of the liberalization may be reduced, or status quo measures may be used, to account for the AM. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the ABC will be used.

(2) [Reserved]

(f) *AM for when the ACL is exceeded and a sector-to-sector transfer of allowable landings has occurred.* If the fishery-level ACL is exceeded and landings from the recreational fishery and/or the commercial fishery are determined to have caused the overage, and a transfer between the commercial and recreational sector has occurred for the fishing year, as outlined in § 648.162(b)(2), then the amount transferred between the recreational and commercial sectors may be reduced by the ACL overage amount (pound-for-pound repayment) in a subsequent, single fishing year if the Bluefish Monitoring Committee determines that the ACL overage was the result of too liberal a landings transfer between the two sectors. If the Bluefish Monitoring Committee determines that the ACL overage was not the result of the landings transfer, the recreational AMs described in paragraphs (d) and (e) of this section will be implemented.

(g) *Non-landing AMs.* In the event that the fishery-level ACL has been exceeded and the overage has not been accommodated through the AM measures in paragraphs (a) through (e) of this section, then the exact amount, in pounds, by which the fishery-level ACL was exceeded shall be deducted, as soon as possible, from subsequent, single fishing year ACTs. The payback will be applied to each sector's ACT in proportion to each sector's contribution to the overage.

(h) *State/Federal disconnect AM.* If the total catch, allowable landings, commercial quotas, and/or recreational harvest limit measures adopted by the

ASMFC Bluefish Management Board and the MAFMC differ for a given fishing year, administrative action will be taken as soon as is practicable to revisit the respective recommendations of the two groups. The intent of this action shall be to achieve alignment through consistent state and Federal measures so no differential effects occur to Federal permit holders.

[FR Doc. 2026–08205 Filed 4–27–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 81
Tuesday, April 28, 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 JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–1362; Attorney General Order No. 6753–2026]

Schedules of Controlled Substances: Rescheduling of Marijuana

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: This is notice that the Drug Enforcement Administration (''DEA'') will hold a hearing with respect to the proposed rescheduling of marijuana into schedule III of the Controlled Substances Act beginning June 29, 2026. The proposed rescheduling of marijuana was initially proposed in a Notice of Proposed Rulemaking published in the **Federal Register** on May 21, 2024. In accordance with Executive Order 14370, DEA is completing this process in the most expeditious manner in accordance with Federal law.

DATES: Interested persons desiring to participate in this hearing must provide written notice of desired participation as set out below, on or before May 28, 2026.

To be considered by DEA as part of this rulemaking, requests to participate in the hearing must be submitted within the timeframe specified above, regardless of whether the person previously submitted either a request for a hearing in response to the notice of proposed rulemaking that DEA published in the **Federal Register** on May 21, 2024 (89 FR 44597), or a request to participate in the hearing in response to the notice of hearing that DEA published in the **Federal Register** on August 29, 2024 (89 FR 70148), the latter of which was subsequently withdrawn.

The hearing will commence on June 29, 2026, at 9 a.m. ET at the DEA Hearing Facility at 700 Army Navy Drive, Arlington, VA 22202. The hearing will conclude not later than July 15, 2026. To allow all parties to celebrate 250 years of American Independence, the hearing will recess on July 3 and reconvene on July 6. The hearing may be moved to a different place and may be continued from day-to-day or recessed to a later date without notice other than announcement thereof by the Administrative Law Judge at the hearing pursuant to 21 CFR 1316.53.

ADDRESSES: To ensure proper handling of notification, please reference ''Docket No. DEA–1362'' on all correspondence.

- *Electronic notification* should be sent to *nprm@dea.gov.*
- *Paper notification* sent via regular or express mail should be sent to Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249. *Email: nprm@dea.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2024, the Department of Justice published a notice of proposed rulemaking (''NPRM'') to transfer marijuana from schedule I of the Controlled Substances Act (''CSA'') to schedule III, consistent with the view of the Department of Health and Human Services (''HHS'') that marijuana has a currently accepted medical use, has a potential for abuse less than the drugs or other substances in schedules I and II, and that its abuse may lead to moderate or low physical dependence or high psychological dependence.[1] The CSA requires that such actions be made through formal rulemaking on the record after opportunity for a hearing.[2] The NPRM invited interested persons to participate in the rulemaking effort by submitting written comments on the proposal or by requesting a hearing.[3]

In response to the NPRM, DEA received numerous comments and requests for hearing from interested persons. DEA scheduled a hearing on the NPRM and published a notice to that effect in the **Federal Register** on August 29, 2024.[4] The **Federal Register** notice announced that the hearing would commence on December 2, 2024.[5] The Department later withdrew the notice of hearing, which can be found elsewhere in this issue of the **Federal Register**. The hearing on the proposed rule was cancelled, and all related proceedings were terminated.

On December 18, 2025, President Trump issued Executive Order (E.O.) 14370, entitled ''Increasing Medical Marijuana and Cannabidiol Research,'' which directs the Attorney General to ''take all necessary steps to complete the rulemaking process related to rescheduling marijuana to Schedule III of the CSA in the most expeditious manner in accordance with Federal law, including 21 U.S.C. 811.'' [6] To comply with the directive in E.O. 14370, while simultaneously conducting an expeditious hearing that fully complies with all applicable provisions of the Administrative Procedure Act (5 U.S.C. 551–559), the CSA (21 U.S.C. 811, *et seq.*), and DEA regulations, the Acting Attorney General is issuing this new notice of hearing on the proposed rule. DEA is committed to accelerating the rulemaking process from this point forward.

Hearing Notification

Pursuant to 21 U.S.C. 811(a) and 21 CFR 1308.41, DEA will convene a hearing on the NPRM. The hearing will commence on June 29, 2026, at 9 a.m. ET at the DEA Hearing Facility, 700 Army Navy Drive, Arlington, VA 22202. The hearing will conclude not later than July 15, 2026. To allow all parties to celebrate the most important milestone in our country's history—250 years of American Independence—the hearing

[1] *Schedules of Controlled Substances: Rescheduling of Marijuana,* 89 FR 44597 (May 21, 2024).

[2] 21 U.S.C. 811(a).

[3] 89 FR 44598–99.

[4] *Schedules of Controlled Substances: Rescheduling of Marijuana,* 89 FR 70148 (Aug. 29, 2024). After considering more than 160 individuals and entities that requested to participate in that hearing, the then-DEA Administrator designated 25 persons and entities (in addition to the Federal Government) as permitted to give live testimony, present argument, and conduct cross-examination as part of the hearing. As of Nov. 19, 2024, five of the 25 participants had either withdrawn their requests to participate, signaled their intent to waive participation, or failed to respond to the tribunal's orders. Order Regarding Standing, Scope, and Prehearing Procedures, DEA Docket No. 1362, Hearing Docket No. 24–44 (Nov. 19, 2024).

[5] 89 FR 70148.

[6] Executive Order 14370, Increasing Medical Marijuana and Cannabidiol Research, 90 FR 60541, 60542 (Dec. 23, 2025).

will recess on July 3 and reconvene on July 6. The hearing may be moved to a different place and may be continued from day to day or recessed to a later date without notice other than announcement thereof by the Administrative Law Judge (''ALJ'') at the hearing.[7] The hearing will be conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and 21 CFR 1308.41–1308.45, and 1316.41–1316.68. DEA is committed to conducting a transparent proceeding. Accordingly, DEA will provide updates on the DEA website, *https://www.dea.gov,* regarding public access to the hearing.

In accordance with 21 U.S.C. 811 and 812, the purpose of the hearing is to ''receiv[e] factual evidence and expert opinion regarding'' whether marijuana should be transferred to schedule III of the list of controlled substances.[8]

Every ''interested person''—defined in 21 CFR 1300.01(b) as ''any person adversely affected or aggrieved by any rule or proposed rule issuable'' under 21 U.S.C. 811—who wishes to participate in the hearing shall file a written notice of intention to participate. Electronic filing may be made as a PDF attachment via email to the Drug Enforcement Administration, Attn: Administrator at *nprm@dea.gov,* on or before 11:59 p.m. Eastern Time on May 24, 2026. If filing by mail, written notice must be filed with the Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, VA 22152, and must be postmarked on or before May 20, 2026. Paper requests that duplicate electronic submissions are not necessary and are discouraged.

Each notice of intention to participate must be in conformity with the requirements of 21 CFR 1308.44(b) and in the form prescribed in 21 CFR 1316.48. Among those requirements, such requests must:

(1) state with particularity the interest of the person in the proceeding;

(2) state with particularity the objections or issues concerning which the person desires to be heard; and

(3) state briefly the position of the person regarding the objections or issues.

Following DEA's assessment of the notices of intention to participate submitted by interested persons, on June 22, 2026, I will notify the interested persons selected to participate in the hearing. I also will designate an ALJ to preside over the hearing. The ALJ's functions shall commence upon designation, as provided in 21 CFR 1316.52. The ALJ will have all powers necessary to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. The ALJ's authorities include the power to hold conferences to simplify or determine the issues in the hearing or to consider other matters that may aid in the expeditious disposition of the hearing; require parties to state their position in writing; sign and issue subpoenas to compel the production of documents and materials to the extent necessary to conduct the hearing; examine witnesses and direct witnesses to testify; receive, rule on, exclude, or limit evidence; rule on procedural items; and take any action permitted by the presiding officer under DEA's hearing procedures and the APA. In accordance with E.O. 14370 and the Attorney General's directives, it is DEA's expectation that the ALJ will expedite proceedings in a manner compliant with Federal law and commensurate with the gravity of the matter.

Comments on or objections to the proposed rule submitted under 21 CFR 1308.43(g) will be offered as evidence at the hearing, but the presiding officer shall admit only evidence that is competent, relevant, material, and not unduly repetitive.[9]

Dated: April 22, 2026.

Todd Blanche,

Acting Attorney General.

[FR Doc. 2026–08177 Filed 4–27–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–1362; Attorney General Order No. 6752–2026]

Schedules of Controlled Substances: Rescheduling of Marijuana; Withdrawal

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of hearing on proposed rulemaking; withdrawal.

SUMMARY: The Department of Justice published a notice of proposed rulemaking in the **Federal Register** on May 21, 2024, which proposed to transfer marijuana from schedule I of the Controlled Substances Act to schedule III. The Drug Enforcement Administration (''DEA'') published a notice of hearing on the proposed rule in the **Federal Register** on August 29, 2024. Upon further review, DEA is withdrawing the notice of hearing and terminating the pending hearing proceedings. As directed by Executive Order 14370, DEA has determined that the most expeditious manner of completing the rulemaking process in accordance with Federal law is to terminate the pending hearing proceedings and initiate new hearing proceedings. DEA is publishing a new notice of hearing elsewhere in this issue of the **Federal Register**.

DATES: As of April 28, 2026, the notice of hearing on the proposed rule that was published in the **Federal Register** on August 29, 2024 (89 FR 70148), is withdrawn, and all hearing proceedings related thereto are terminated.

ADDRESSES: 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249. *Email: nprm@dea.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 2024, the Department of Justice published a notice of proposed rulemaking (''NPRM'') in the **Federal Register**, which proposed to transfer marijuana from schedule I of the Controlled Substances Act to schedule III pursuant to the procedures defined in 21 U.S.C. 811(a).[1] Interested persons were invited to participate in the rulemaking effort by submitting written comments on the proposal or by requesting a hearing.[2]

In response to the NPRM, DEA received numerous comments and requests for hearing from interested persons. DEA scheduled a hearing on the NPRM and published a notice to that effect in the **Federal Register** on August 29, 2024.[3] The **Federal Register** notice announced that the hearing would commence on December 2, 2024.[4] The then-Administrator of DEA designated an administrative law judge

[7] 21 CFR 1316.53.

[8] *See also* 21 CFR 1308.42.

[9] 21 CFR 1316.59(a).

[1] *Schedules of Controlled Substances: Rescheduling of Marijuana,* 89 FR 44597 (May 21, 2024).

[2] *Id.* at 44598–99.

[3] *Schedules of Controlled Substances: Rescheduling of Marijuana,* 89 FR 70148 (Aug. 29, 2024). After considering more than 160 individuals and entities that requested to participate in that hearing, the then-DEA Administrator designated 25 persons and entities (in addition to the Federal Government) permitted to give live testimony, present argument, and conduct cross-examination as part of the hearing. As of Nov. 19, 2024, five of the 25 participants had either withdrawn their requests to participate, signaled their intent to waive participation, or failed to respond to the tribunal's orders. Order Regarding Standing, Scope, and Prehearing Procedures, DEA Docket No. 1362, Hearing Docket No. 24–44 (Nov. 19, 2024).

[4] 89 FR 70148.

(''ALJ'') to preside over the hearing. The presiding ALJ conducted significant prehearing activity, including holding a preliminary hearing, ruling on motions, ordering and receiving prehearing statements, and issuing a comprehensive and detailed hearing schedule delimiting the permissible number of witnesses and the timing of presentations. The presiding ALJ also independently reviewed the ''standing'' of all interested persons that had been selected by the then-Administrator to participate in the hearing, requiring each selected participant to assert again their interest in the proceeding. The presiding ALJ then ruled that certain interested persons selected by the Administrator ''may not independently continue to participate'' in the proceedings because they did not demonstrate standing.[5] In short, the presiding ALJ indelibly imprinted the proceedings. On January 13, 2025, the presiding ALJ issued an order, staying the hearing proceedings pending resolution of an interlocutory appeal filed by two parties to the proceedings. The proceedings remain stayed to this day. In the intervening period, the presiding ALJ retired from Federal service.

On December 18, 2025, President Trump issued Executive Order (E.O.) 14370, entitled ''Increasing Medical Marijuana and Cannabidiol Research,'' which directs the Attorney General to ''take all necessary steps to complete the rulemaking process related to rescheduling marijuana to Schedule III of the CSA in the most expeditious manner in accordance with Federal law, including 21 U.S.C. 811.'' [6] To comply with the directive in E.O. 14370, the Administrative Procedure Act (5 U.S.C. 551–559), the CSA (21 U.S.C. 811 *et seq.*), and DEA regulations, and to best ensure fairness and transparency, DEA has determined that the most expeditious manner of completing the rulemaking process is to terminate the hearing that was initiated pursuant to the August 29, 2024, **Federal Register** notice and to initiate new hearing proceedings. DEA has concluded that a new hearing is likely to result in a more expeditious conclusion to the rulemaking process, even in light of the time required to publish this notice, receive notices of intention to participate from interested persons, assess such notices, and assign a DEA ALJ to preside over the proceedings.

[5] Order Regarding Standing, Scope, and Prehearing Procedures (Nov. 19, 2024).

[6] Executive Order 14370, Increasing Medical Marijuana and Cannabidiol Research, 90 FR 60541, 60542 (Dec. 23, 2025).

DEA is committed to accelerating the rulemaking process from this point forward.

DEA, therefore, withdraws the notice of hearing. The hearing on the proposed rule is cancelled, and all proceedings related thereto are hereby terminated. DEA is publishing a new notice of hearing elsewhere in this issue of the **Federal Register**.

Dated: April 22, 2026.

Todd Blanche,

Acting Attorney General.

[FR Doc. 2026–08178 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 60, 92, 93, 200, 202, 203, 206, 221, 236, 266, 291, 570, 574, 578, 582, 583, 700, 850, 880, 882, 884, 886, 891, 960, 970, 982, 984, 1005, and 1006

[Docket No. FR–6518–P–01]

RIN 2501–AE12

Equal Access to Housing in HUD Programs Revisions

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would harmonize HUD's existing Equal Access regulations with the directions of the Executive Order titled ''Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.'' The rule would remove references to ''gender'' and ''gender identity'' from HUD regulations, or remove and replace it with ''sex,'' as defined by the Executive Order. Through these revisions, the rule would ensure equal access to qualifying facilities would be provided in accordance with the sex of an individual based on his or her immutable biological classification as either male or female rather than the ever-shifting concept of self-assessed gender identity. It would also provide grant recipients, subrecipients, owners, operators, managers, and providers under HUD programs that permit single-sex or sex-specific facilities (such as temporary, emergency shelters or other facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or bathrooms) the ability to require reasonable assurances and evidence to confirm the sex of an individual seeking service in order to protect the safety of other individuals in the facility.

DATES: Comments must be received by June 29, 2026.

ADDRESSES: There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through *www.regulations.gov* can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that website to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

Note: To receive consideration as a public comment, comments must be submitted through one of the two methods specified above.

Public Inspection of Public Comments. HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202–708–3055 (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.* Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.* In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Hughes, Chief of Staff, or David Woll, General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202–402–2244 (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:

I. Background

In 2012, HUD published a final rule entitled ''Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity'' (2012 Rule) to ensure that its core housing programs are open to all eligible families and individuals ''without regard to actual or perceived sexual orientation, gender identity, or marital status.'' 77 FR 5662.

The 2012 Rule defined ''gender identity'' as ''actual or perceived gender-related characteristics.'' The 2012 Rule generally prohibited inquiries into ''gender identity'' in determining eligibility or making housing available, but permitted inquiries related to an applicant's or occupant's sex for the limited purpose of determining placement in temporary, emergency shelters with shared bedrooms or bathrooms, or for determining the number of bedrooms to which a household may be eligible.[1] In promulgating the 2012 Rule, HUD relied on the Secretary's general rulemaking authority pursuant to section 7(d) of the Department of Housing and Urban Development Act of 1965 (42 U.S.C. 3535(d)), rather than the Fair Housing Act or other civil rights and nondiscrimination authorities.

On September 21, 2016, HUD expanded on its 2012 Rule and published a final rule entitled, ''Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs'' (2016 Rule). 81 FR 64763. HUD mandated that persons with gender dysphoria be given access to Community Planning and Development (CPD)-assisted programs, benefits, services, and accommodations, some of which are permitted to be operated on a single-sex or sex-specific basis (collectively, ''single-sex facilities''), in accordance with their ''gender identity.'' These programs include temporary and emergency shelter programs, such as the Emergency Solutions Grants program and the Housing Opportunities for Persons with AIDS (HOPWA) program. The 2016 Rule amended the definition of ''gender identity'' included in the 2012 Rule to mean ''the gender with which a person identifies, regardless of the sex assigned at birth[.]''

The 2016 Rule removed 24 CFR 5.105(a)(2)(ii), the provision of the 2012 Rule that allowed for lawful inquiries into an occupant's sex in the case of temporary or emergency shelters with shared bathroom or bedroom facilities, or for the purpose of determining the number of bedrooms to which a household may be eligible.[2] Instead, the 2016 Rule contained a provision that policies and procedures must ensure that individuals are not subject ''to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence'' of their ''gender identity.''

Section 5.106(c) of the 2016 Rule requires that individuals seeking access to single-sex facilities be placed and accommodated in accordance with their self-identified gender identity, expressly declining to adopt a provision of the proposed rule that provided that in certain cases, an alternative accommodation for persons with gender dysphoria would be appropriate to ensure health and safety.

In addition, the 2016 Rule added the Housing Trust Fund and Rural Housing Stability Assistance programs explicitly to the non-exclusive list of programs covered, and language was added to indicate that the 2016 Rule applies to both recipients of HUD CPD grants and subrecipients, as well as those who administer CPD-funded programs and services.

On January 20, 2025, President Trump issued Executive Order 14168, titled ''Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.'' 90 FR 8615. Section 4(b) of the Executive Order directs HUD to prepare rulemaking to rescind the 2016 Rule. Further, the Order directs agencies to remove ''all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology.''

II. Proposed Rule

Consistent with E.O. 14168, HUD has reconsidered the 2012 and 2016 Equal Access rules and is proposing that the definition of and all references to ''gender identity'' and ''gender'' be removed throughout HUD's regulations and replaced with ''sex'' to refer to an individual's immutable biological classification as either male or female as defined in Section 2 of E.O. 14168. This includes replacing ''gender'' with ''sex'' for non-discrimination,[3] reporting and recordkeeping,[4] and other provisions,[5] and removing references to ''gender identity'' or ''actual or perceived sexual orientation, gender identity'' and replacing them with ''sex'' for non-discrimination,[6] reporting and recordkeeping,[7] and other provisions.[8] Several of the provisions also specifically incorporate the 2012 Equal Access Rule.[9] These provisions apply across HUD's programs, including Section 8 housing and other housing programs, fair housing enforcement and administration, mortgage programs, programs to help the homeless and domestic violence victims, and community development programs.

The proposed rule would remove prohibitions on service providers from seeking information to confirm the sex of an individual seeking services. The rule would allow a facility provider to ''require reasonable assurances or evidence to establish a person's sex.'' [10] The proposed rule also proposes to add § 5.106(e) stating that these requirements preempt any conflicting state or local laws non-compliance and that violations of said requirements will be subject to all applicable penalties, including loss of federal funding. HUD

[1] While the 2012 rule permitted limited inquiries, HUD's guidance on the rule, ''Appropriate Placement for Transgender Persons in Single-Sex Emergency 14 Shelters and Other Facilities'' (CPD–15–02), suggested that providers rely on self-attestation of sex and that there is ''generally is no legitimate reason in this context for the provider to request documentation of a person's sex in order to determine appropriate placement, nor should the provider have any basis to deny access to a single-sex emergency shelter or facility solely because the provider possesses identity documents indicating a sex different than the gender with which the client or potential client identifies.'

[2] By way of background, before 2023, in determining unit size, children of the opposite sex were not required (though they were allowed) to share a bedroom. In 2023, HUD eliminated this provision. See 88 FR 30445.

[3] 24 CFR 5.655, 578.93, 850.151, 960.206, 970.21, 982.207.

[4] 24 CFR 92.508, 202.12, 221.795, 236.1001, 291.440, 570.490, 570.506, 570.904, 582.300, 583.300, 700.175, 880.603, 882.514, 882.810, 884.214, 886.138, 886.321, 886.338, 891.410, 891.510, 891.610, 891.750, 982.158.

[5] 24 CFR 60.107, 93.407, 891.410, 891.610.

[6] 24 CFR 200.300, 203.33, 266.220, 891.740, 891.750, 984.201, 984.203, 1005.407, 1005.457, 1005.517, 1006.355.

[7] 24 CFR 206.37.

[8] 24 CFR 5.403, 5.2001, 570.3, 574.3.

[9] 24 CFR 5.2001, 200.300, 266.220, 1006.355.

[10] HUD intends to provide maximum deference to grantees and recognizes that some grantees may be more flexible or stringent in their policies than others for providing evidence of a person's sex.

believes this would advance the important policy objectives of this proposed rule by ensuring maximum uniformity and compliance.

HUD is considering preempting local laws that may conflict with these requirements for state or local entities receiving CPD funds.

III. Justification for the Rule Change

HUD believes that the 2016 Rule impermissibly restricted single-sex facilities without proper congressional authorization while also violating both the privacy and safety of homeless women and the religious liberty of many faith-based service providers. In addition, Executive Order 14168 directs HUD to ''prepare and submit for notice and comment rulemaking a policy to rescind the [2016 Rule].''

In the 2016 Rule, HUD did not rely on explicit statutory authorization, such as the prohibition against ''sex'' discrimination under the Fair Housing Act because that Act does not apply to emergency shelters.[11] Rather, HUD in 2016 relied on the Secretary's plenary authority to issue regulations, indicating that ''HUD's establishment of programmatic requirements for temporary, emergency shelters and other buildings and facilities funded through HUD programs is well within HUD's statutory authority and an important part of HUD's mission in ensuring access to housing for all Americans.'' 81 FR 64771. HUD now believes that this exceeded the authority granted to HUD by Congress.[12] HUD has reviewed comments on the 2016 rule and now agrees with those commenters that raised concerns about HUD's statutory authority to adopt that rule. For example, HUD finds it significant that the Fair Housing Act forbids sex discrimination as to covered dwellings, but not as to free, temporary, emergency shelters or other buildings or facilities, which therefore evinces the intent of Congress to permit single-sex housing in the latter case. Furthermore, HUD agrees with commenters who noted that it is beyond HUD's statutory authority to create a new class of individuals to be protected by federal non-discrimination law. By exceeding its plenary authority from Congress, the 2016 Rule impermissibly imposed an unnecessary and harmful regulatory burden on operators of single-sex facilities.

But even if the 2016 Rule could have been a permissible exercise of HUD's statutory rulemaking authority, HUD now has serious doubts about the rationale for that rulemaking and proposes to exercise its authority to rescind it.

First, it is not beneficial to institute a national policy that forces homeless women to choose between sleeping alongside and interacting with men in other intimate settings or refusing emergency shelter or other facilities. Homeless women are at increased risk of sexual assault by biological males compared to other women.[13] Requiring shelters to place biological males with homeless women in shared sleeping, bathroom, and other intimate settings continues to place them at risk of sexual harassment and assault and exacerbates prior traumas for many homeless women. This is especially true because biological men may exploit the process of self-identification under the current rule to gain access to women's shelters. The United Kingdom, for example, recently refused to house biological males identifying as females with biological females in prisons; the Ministry of Justice published figures showing that 62 percent of males identifying as females in UK prisons had committed at least one sexual offense.[14] For many homeless women, even the perception that this could jeopardize their safety would harm them because, very reasonably, they would choose to remain homeless. In Alaska, for example, a federal court held that ''the public interest would be adversely affected'' if an Alaska homeless shelter for women were forced to admit biological men into its spaces.[15] HUD's 2016 Rule inappropriately dismissed these concerns and the need for certain facilities to serve only those of one sex.[16]

Second, requiring homeless shelters and other facilities to house individuals inconsistent with their sex reduces the amount of help available to homeless individuals because it imposes an unacceptable and potentially illegal burden on the religious exercise of many faith-based facilities.[17] Many faith traditions believe that sex is an immutable characteristic determined by a creator, that male and female are the only two sexes, and that it is wrong for a person to deny his or her sex.[18] Accordingly, many faith-based homeless shelters and other providers have sincerely held religious beliefs that they should conduct their ministries in ways that are consistent with this fundamental belief.

For example, Hope Center in Alaska, a faith-based homeless shelter for women, sued in Federal District Court to prevent the application of a local law that would require them to serve biological males who identify as females.[19] Hope Center believes that doing so would violate their sincerely held religious belief that the Bible teaches that God creates people male or female, that it would impair their religious mission and harm the individuals served to deny that belief in ministering to others, and ''that it should care for women who lack shelter,'' thus excluding men.[20] Hope Center believes that the application of laws like HUD's 2016 Rule violate the

[11] The 2016 Rule did, however, incorrectly state that ''[d]iscrimination because of gender identity is covered within the Fair Housing Act's prohibition of sex discrimination'' when noting the larger backdrop of federal laws prohibiting discrimination based on sex. 81 FR at 64770.

[12] *See Bowen* v. *Georgetown Univ. Hosp.,* 488 U.S. 204, 208 (1988) (''It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress.'').

[13] Lisa Goodman, Katya Fels, and Catherine Glen, *No Safe Place: Sexual Assault in the Lives of Homeless Women,* Applied Research Forum (2006).

[14] Sir Nicholas Dakin, Minister for Prisons, Written Answer to Question 20298, *Prisoners: Transgender People* (Dec. 23, 2024), available at *https://questions-statements.parliament.uk/written-questions-detail/2024-12-16/20298.*

[15] *Downtown Soup Kitchen* v. *Anchorage,* 406 F. Supp. 3d 776, 799 (D. Alaska 2019); *see also id.,* 3:18–cv–00190, Doc. 34 at 2 ¶ 9 (homeless woman testifying that ''I would rather sleep in the woods than sleep in the same area as a biological man'').

[16] 81 FR at 64773, 64778.

[17] See, *e.g.,* Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. 449, (2017); Carson as next friend of O.C. v. Makin, 596 U.S. 767, (2022); Espinoza v. Montana Dept. of Revenue, 591 U.S. 464 (2020); Tandon v. Newsom, 593 U.S. 61, (2021).

[18] See, *e.g.,* Pew Research Center, *Religious groups' policies on transgender members vary widely* (December 2, 2015), available at *https://www.pewresearch.org/short-reads/2015/12/02/religious-groups-policies-on-transgender-members-vary-widely/;* Coalition for Jewish Values, *Rabbinic Open Letter on Gender Dysphoria* (February 13, 2025), available at *https://coalitionforjewishvalues.org/2025/02/rabbinic-open-letter-on-gender-dysphoria/*; Navigating Differences, *Navigating Differences: Clarifying Sexual and Gender Ethics in Islam* (June 7, 2023), available at *https://navigatingdifferences.com/clarifying-sexual-and-gender-ethics-in-islam/.*

[19] See James Brooks, Municipality of Anchorage will pay $100,001 to settle transgender-discrimination lawsuit involving homeless shelter (October 1, 2019), available at: *https://www.adn.com/alaska-news/anchorage/2019/10/01/municipality-of-anchorage-will-pay-100001-to-settle-transgender-discrimination-lawsuit-involving-homeless-shelter/.*

[20] For a full discussion of their religious beliefs, see *The Downtown Soup Kitchen* v. *Municipality of Anchorage,* No. 3:18–cv–00190–SLG, Dkt. No. 1, ''Verified Complaint'', available at: *https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/the-downtown-soup-kitchen-dba-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage-complaint.pdf?sfvrsn=9536cb21_*4 pp. 8–10; see also Alliance Defending Freedom For Faith and Justice, *Downtown Hope Center* v. *Municipality of Anchorage, et al.,* available at: *https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/resources/media-resources/cases/the-downtown-soup-kitchen-d-b-a-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage-one-page-summary.pdf?sfvrsn=fa9b07be_6.*

First Amendment's Free Exercise Clause. HUD's 2016 Rule raises the same potential issue of coercing ministries like Hope to ''abandon [their] mission and message'' to participate in government-funded programs.'' [21]President Trump's Executive Order 14168 specifically directed HUD to prepare and submit for notice and comment rulemaking a policy to rescind the 2016 Rule in order to restore biological truth in the federal government. The Order recognized that ''efforts to eradicate the biological reality of sex fundamentally attack women by depriving them of their dignity, safety, and wellbeing.'' HUD believes this rule would advance the President's policy to ''defend women's rights and protect freedom of conscience'' by ensuring that single-sex facilities are empowered to protect their clients, including those who are seeking shelter from domestic violence or sexual abuse.

Additionally, Executive Order 14168 instructed agencies to amend agency documents, including regulations, to use the term ''sex'' instead of ''gender.'' HUD believes it is beneficial to clarify this across all its operations to clarify that many of its existing regulations which protect ''gender'' (as opposed to ''gender identity'') prohibit discrimination based on sex, not gender identity. In accordance with the Order, this proposed rule would also remove or revise references to ''gender identity'' [22] throughout all parts and sections of HUD's regulations, including many that were inserted into HUD rules outside of the 2012 and 2016 Equal Access Rules.[23]

HUD is considering these revisions that apply to its grantees, especially those relating to single-sex facilities, its program participants, and all other programs because it agrees with Section 2(g) of the Order, which provides '''Gender identity' reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.''

HUD acknowledges that this rulemaking would result in denying individuals who claim a different gender identity than their sex being denied access to their preferred single-sex shelters or their preferred accommodations in other shelters. These individuals would need to find other shelter options that are not limited to a single sex or seek admission to a single-sex shelter consistent with their sex. Additionally, this rulemaking would require some organizations to follow rules inconsistent with their beliefs regarding gender and sex, if they continue to use federal funds. HUD has considered these potential impacts and believes they are outweighed by the factors discussed above, especially that HUD must follow the clear meaning of the statute, ensure safe shelter environments for women, and respect the free exercise of religion.

IV. Findings and Certifications

Executive Orders 12866 and 13563, Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been determined to be a ''significant regulatory action,'' as defined in section 3(f) of Executive Order 12866, but not economically significant.

Executive Order 14192, Regulatory Costs

Executive Order 14192, entitled ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025. Section 3(c) of Executive Order 14192 requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. OMB has determined that this proposed rule would be a repeal of a regulation resulting in reduced regulatory costs for purposes of Executive Order 14192 by providing flexibility for grantees in determining their policies.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism''), which replaced Executive Order 12612, prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and loc al governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of Section 6 of the Executive Order. This rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Impact

This final rule is a policy document that sets out nondiscrimination standards. Accordingly, under 24 CFR 50.19(c)(3), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Entities affected by this rule are those who operate single-sex facilities and would change or establish policy as a result of this rule. HUD cannot provide the exact number of entities that would be affected. However, in 2024, approximately 2,350 emergency shelters were funded by HUD programs. Out of this 2,350, not all of these operate single-sex shelters, and not all of those that do operate single-sex shelters would establish a new policy. HUD does not have data about the number of these operate single-sex shelters, or how many would issue a new policy, or how many of these are small entities, but only a percentage of the 2,350 would fall into all three of these categories.

Accordingly, for the foregoing reasons, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this proposed rule would not have a significant effect on a substantial number of small entities, HUD specifically requests from the public any

[21] *The Downtown Soup Kitchen* v. *Municipality of Anchorage,* No. 3:18-cv-00190–SLG, Dkt. No. 1, ''Verified Complaint'', available at: *https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/the-downtown-soup-kitchen-dba-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage-complaint.pdf?sfvrsn=9536cb21.*

[22] This proposed rule also proposes to revise joint references to ''actual or perceived sexual orientation, gender identity'' to ''sex'' to avoid the confusion of prohibiting discrimination based both on ''sex'' and ''sexual orientation,'' since the latter is often considered a subset of the former.

[23] *See, e.g.,* 81 FR 80989 (2016) (amending 24 CFR 1006.355); 88 FR 75230 (2023) (amending 24 CFR 891.740).

information about the number of small entities that might be impacted and invites comments on whether the proposed rule will not have a significant effect and any less burdensome alternatives to this rule that will meet HUD's objectives.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any state, local, or tribal government, or on the private sector, within the meaning of the UMRA.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 60

Human research subjects, Reporting and recordkeeping requirements, Research.

24 CFR Part 92

Administrative practice and procedure, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 93

Administrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies) Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 266

Intergovernmental relations, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 291

Community facilities, Conflicts of interest, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

24 CFR Part 574

Community facilities, Grant programs—housing and community development, Grant programs—social programs, HIV/AIDS, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 578

Community development, Community facilities, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements.

24 CFR Part 582

Civil rights, Community facilities, Grant programs—housing and community development, Grant programs—social programs, Homeless, Individuals with disabilities, Mental health programs, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 583

Civil rights, Community facilities, Employment, Grant programs—housing and community development, Grant programs—social programs, Homeless, Indians, Individuals with disabilities, Mental health programs, Nonprofit organizations, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 700

Aged, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 850

Grant programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 880

Accounting, Administrative practice and procedure, Government contracts, Grant programs—housing and community development, Home improvement, Housing, Housing standards, Low and moderate income housing, Manufactured homes, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Accounting, Administrative practice and procedure, Grant programs—

housing and community development, Home improvement, Housing, Low and moderate income housing, Public assistance programs, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Utilities.

24 CFR Part 886

Accounting, Administrative practice and procedure, Government contracts, Grant programs—housing and community development, Home improvement, Housing, Lead poisoning, Low and moderate income housing, Mortgages, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements, Utilities, Wages.

24 CFR Part 891

Aged, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing.

24 CFR Part 9705

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Grant programs—Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 984

Grant programs—housing and community development, Grant programs—Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 1005

Indians, Loan programs—Indians, Reporting and recordkeeping requirements.

24 CFR Part 1006

Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Hawaiian Natives, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, For the reasons stated in the preamble, HUD proposes to amend 24 CFR parts 5, 60, 92, 93, 200, 202, 203, 206, 221, 236, 266, 291, 570, 574, 578, 582, 583, 700, 850, 880, 882, 884, 886, 891, 960, 970, 982, 984, 1005, and 1006 as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437f, 1437n, 3535(d); 42 U.S.C. 2000bb *et seq.*; 34 U.S.C. 12471 *et seq.*; Sec. 327, Pub. L. 109–115, 119 Stat. 2396; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 14015, 86 FR 10007, 3 CFR, 2021 Comp., p. 517.

■ 2. Amend § 5.100 by removing the definitions of ''Gender identity'' and ''Sexual orientation'' and adding a definition of ''Sex'' in alphabetical order to read as follows:

§ 5.100 Definitions.

* * * * *

Sex means an individual's immutable biological classification as either male or female. Sex is not a synonym for and does not include the concept of gender identity. In addition, the following definitions related to sex apply:

(1) *Female* is a person of the sex characterized by a reproductive system with the biological function of (at maturity, absent disruption or congenital anomaly) producing eggs (ova).

(2) *Male* is a person of the sex characterized by a reproductive system with the biological function of (at maturity, absent disruption or congenital anomaly) producing sperm.

(3) *Woman* is an adult human female.

(4) *Girl* is a juvenile human female.

(5) *Man* is an adult human male.

(6) *Boy* is a minor human male.

(7) *Mother* is a female parent.

(8) *Father* is a male parent.

* * * * *

§ 5.105 [Amended]

■ 3. Amend § 5.105(a)(2) by removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex''.

■ 4. Amend § 5.106 by:

■ a. Revising the section heading, paragraph (b) heading, and paragraphs (b)(1) and (2);

■ b. Removing paragraph (b)(3) and redesignating paragraph (b)(4) as paragraph (b)(3); and

■ c. Revising paragraph (c); and

■ d. Adding paragraph (e).

The revisions read as follows:

§ 5.106 Equal access in accordance with the individual's sex in community planning and development programs.

* * * * *

(b) *Equal access in accordance with the individual's sex.* * * *

(1) Equal access to CPD programs, shelters, other buildings and facilities, benefits, services, and accommodations is provided to an individual in accordance with the individual's sex, and in a manner that affords equal access to the individual's family, provided that such equal access is subject to paragraph (c) of this section;

(2) An individual is placed, served, and accommodated in accordance with the sex of the individual;

* * * * *

(c) *Placement and accommodation in temporary, emergency shelters and other buildings and facilities with shared sleeping quarters or shared bathing facilities.* Placement and accommodation of an individual in temporary, emergency shelters and other buildings and facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or shared bathing facilities shall be made in accordance with the individual's sex. A facility provider may require reasonable assurances or evidence to establish a person's sex.

* * * * *

(e) *Non-compliance.* Non-compliance with these regulations by state or local entities due to adherence to conflicting local laws or policies may be considered a violation of federal requirements, subject to appropriate enforcement actions, including but not limited to the withholding or revocation of federal funds provided through the CPD programs identified in paragraph (a) of this section.

§ 5.403 [Amended]

■ 5. Amend § 5.403 by removing from the definition of ''Family'' the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex''.

§ 5.655 [Amended]

■ 6. Amend § 5.655(c)(1)(iv) by removing the word ''gender'' and adding, in its place, the word ''sex''.

§ 5.2001 [Amended]

■ 7. Amend § 5.2001(a) by:

■ a. Removing the words ''gender identity, or sexual orientation''; and

■ b. Removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex'';

PART 60—PROTECTION OF HUMAN SUBJECTS

■ 8. The authority citation for part 60 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b) and 3535(d).

§ 60.107 [Amended]

■ 9. Amend § 60.107(a) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

■ 10. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701—12839, 12 U.S.C. 1701x.

§ 92.508 [Amended]

■ 11. Amend § 92.508 by:

■ a. In paragraph (a)(7)(i)(A), removing the word ''gender'' and adding, in its place, the word ''sex''; and

■ b. In paragraph (a)(7)(ii)(B), removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 93—HOUSING TRUST FUND

■ 12. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 12 U.S.C. 4568.

§ 93.407 [Amended]

■ 13. Amend § 93.407(a)(5)(ii) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 14. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

§ 200.300 [Amended]

■ 15. Amend § 200.300(a) by removing the words ''sexual orientation or gender identity'' and adding, in their place, the word ''sex''.

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

■ 16. The authority citation for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709 and 1715b; 42 U.S.C. 3535(d).

§ 202.12 [Amended]

■ 17. Amend § 202.12(a)(8) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

■ 18. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1707, 1709, 1710, 1715b, 1715z–16, 1715u, and 1715z-21; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

§ 203.33 [Amended]

■ 19. Amend § 203.33(b) by removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, ''sex''.

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

■ 20. The authority citation for part 206 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–20; 42 U.S.C. 3535(d)

§ 206.37 [Amended]

■ 21. Amend § 206.37(b)(3)(i) by removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex''.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE—SAVINGS CLAUSE

■ 22. The authority citation for part 221 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715l, and 1735d; 42 U.S.C. 3535(d).

§ 221.795 [Amended]

■ 23. Amend § 221.795(f)(3) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

■ 24. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–1, and 1735d; 42 U.S.C. 3535(d).

§ 236.1001 [Amended]

■ 25. Amend § 236.1001(f)(3) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

■ 26. The authority citation for part 266 continues to read as follows:

Authority: 12 U.S.C. 1715z–22.; 42 U.S.C. 3535(d).

§ 266.220 [Amended]

■ 27. Amend § 266.220(b) by removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex'', and removing the words ''sexual orientation and gender identity'' and adding, in their place, the word ''sex.''.

PART 291—DISPOSITION OF HUD-ACQUIRED AND -OWNED SINGLE FAMILY PROPERTY

■ 28. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

§ 291.440 [Amended]

■ 29. Amend § 291.440 by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

■ 30. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 3535(d) and 5301–5320.

§ 570.3 [Amended]

■ 31. Amend 570.3 by removing from the definition of ''Household'' the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex''.

§§ 570.490, 570.506 and 570.904 [Amended]

■ 32. Remove the word ''gender'' and add, in its place, the word ''sex'' where it appears in the following places:

■ a. § 570.490(a)(1) and (b);

■ b. § 570.506(g)(2), (g)(4), and (g)(6); and

■ c. § 570.904(b)(1), (b)(2), and (d).

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

■ 33. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 3535(d) and 5301–5320.

§ 574.3 [Amended]

■ 34. Amend § 574.3 by removing from the definition of ''Family'' the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place the word ''sex''.

PART 578—CONTINUUM OF CARE PROGRAM

■ 35. The authority citation for part 578 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 11381 *et seq.*, 42 U.S.C. 3535(d).

§ 578.93 [Amended]

■ 36. Amend § 578.93(e) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 582—SHELTER PLUS CARE

■ 37. The authority citation for part 582 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11403–11407b.

§ 582.300 [Amended]

■ 38. Amend § 582.300(d)(1) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 583—SUPPORTIVE HOUSING PROGRAM

■ 39. The authority citation for part 583 continues to read as follows:

Authority: 42 U.S.C. 11389 and 3535(d).

§ 583.300 [Amended]

■ 40. Amend § 583.300(g) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 700—CONGREGATE HOUSING SERVICES PROGRAM

■ 41. The authority citation for part 700 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

§ 700.175 [Amended]

■ 42. Amend § 700.175(d)(3) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 850—HOUSING DEVELOPMENT GRANTS

■ 43. The authority citation for part 850 continues to read as follows:

Authority: 42 U.S.C. 1437o, 3535(d).

§ 850.151 [Amended]

■ 44. Amend § 850.151(g) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

■ 45. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

§ 880.603 [Amended]

■ 46. Amend § 880.603(b)(3) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

■ 47. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§§ 882.514 and 882.810 [Amended]

■ 48. Remove the word ''gender'' and add, in its place, the word ''sex'' where it appears in the following places:
■ a. § 882.514(a)(2); and
■ b. § 882.810(f)(3).

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

■ 49. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

§ 884.214 [Amended]

■ 50. Amend § 884.214(b)(5) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

■ 51. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

§§ 886.138, 886.321, and 886.338 [Amended]

■ 52. Remove the word ''gender'' and add, in its place, the word ''sex'' where it appears in the following places:
■ a. § 886.138(f)(3);
■ b. § 886.321(b)(5); and
■ c. § 886.338(f)(3).

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

■ 53. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

§ 891.410 [Amended]

■ 54. Amend § 891.410(a) and (f) by removing, where it appears, the word ''gender'' and adding, in its place, the word ''sex''.

§ 891.510 [Amended]

■ 55. Amend § 891.510(e) by removing the word ''gender'' and adding, in its place, the word ''sex''.

§ 891.610 [Amended]

■ 56. Amend § 891.610(a) and (f) by removing, where it appears, the word ''gender'' and adding, in its place, the word ''sex''.

§ 891.740 [Amended]

■ 57. Amend § 891.740(a)(2) by removing the parenthetical ''(including actual or perceived sexual orientation and gender identity)''.

§ 891.750 [Amended]

■ 58. Amend § 891.750(b)(3) by removing the parenthetical ''(including actual or perceived sexual orientation and gender identity)''.
■ 59. Amend § 891.750(b)(4) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

■ 60. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z-3, and 3535(d).

§ 960.206 [Amended]

■ 61. Amend § 960.206(b)(1)(iii) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

■ 62. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 1437p and 3535(d).

§ 970.21 [Amended]

■ 63. Amend § 970.21(a) by removing the word ''gender'' and adding, in its place, the word ''sex''.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

■ 64. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§§ 982.158 and 982.207 [Amended]

■ 65. Remove the word ''gender'' and add, in its place, the word ''sex'' where it appears in the following places:
■ a. § 982.158(f)(1); and
■ b. § 982.207(b)(1)(iii).

PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

■ 66. The authority citation for part 984 continues to read as follows:

Authority: 42 U.S.C. 1437f, 1437u, and 3535(d).

§§ 984.201 and 984.203 [Amended]

■ 67. Remove the text ''(including actual or perceived gender identity and sexual orientation)'' where it appears in the following places:
■ a. § 984.201(d)(4); and
■ b. § 984.203(d)(3).

PART 1005—LOAN GUARANTEES FOR INDIAN HOUSING

■ 68. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 1715z–13a; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

§§ 1005.407, 1005.457, and 1005.517 [Amended]

■ 69. Remove the text ''(including gender identity and sexual orientation)'' where it appears in the following places:

■ a. § 1005.407(b);

■ b. § 1005.457(b); and

■ c. § 1005.517(a)(1) and (a)(2).

PART 1006—NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

■ 70. The authority citation for part 1006 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701x–1; 25 U.S.C. 4221 *et seq.*; 42 U.S.C. 3535(d), Pub. L. 115–141, Pub. L. 116–6, Pub. L. 116–94, Pub. L. 116–260, Pub. L. 117–103, Pub. L. 117–328.

§ 1006.355 [Amended]

■ 71. Amend § 1006.355 by removing the words ''actual or perceived sexual orientation, gender identity'' and adding, in their place, the word ''sex''.

Scott Turner,

Secretary.

[FR Doc. 2026–08244 Filed 4–27–26; 8:45 am]

BILLING CODE 4210–67–P

Notices

Federal Register
Vol. 91, No. 81
Tuesday, April 28, 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

Farm Service Agency

[Docket ID: FSA–2026–0265]

Information Collection Requests; Guaranteed Farm Loan Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) requirement, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a revision of a currently approved information collection request associated with the Guaranteed Farm Loan Program. In the Guaranteed Farm Loan Program, the collected information is needed to make and service loans guaranteed by FSA to eligible farmers and ranchers by commercial lenders and nontraditional lenders.

DATES: We will consider comments that we receive by June 29, 2026.

ADDRESSES: We invite you to submit comments on the notice. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov* and search for docket ID FSA–2026–0265. Follow the online instructions for submitting comments.
- *Mail:* Lee Nault, Loan Servicing and Properties Management Division, USDA, FSA, Farm Loan Programs, 1400 Independence Ave. SW, Mail Stop 0523, Washington, DC 20250–00523.

Comments will be available for inspection online at *http://www.regulations.gov.* Copies of the information collection may be requested by contacting Lee Nault (see **FOR FURTHER INFORMATION CONTACT** below). You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lee Nault, (202) 720–6834; email: *Lee.Nault@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Title: Farm Loan Programs—Guaranteed Farm Loan.

OMB Control Number: 0560–0155.

Expiration Date: November 30, 2026.

Type of Request: Extension with a revision.

Abstract: This information collection is needed to effectively administer the FSA guaranteed farm loan programs. The information is collected by the FSA loan official in consultation with participating lenders. The basic objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The reporting requirements imposed on the public by the regulations at 7 CFR part 762 are necessary to administer the guaranteed loan program in accordance with statutory requirements of the Consolidated Farm and Rural Development Act and are consistent with commonly performed lending practices. Collection of information after loans are made is necessary to protect the Government's financial interest.

The annual responses have been reduced to 97,897, while the burden hours reduced by 29,320 hours to 125,311 total hours. The reason for the decrease is due to a drop in Guaranteed loans originated between the years FY 2023 and FY 2025, and the reduction in total number of Guaranteed loans outstanding. Between FY 2022 and FY 2025, the number of Guaranteed loans fell by 31 percent from 52,490 to 35,984. In addition, the number of loss claims and default status reports received is much lower than FY 2022.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual responses.

Estimate of Average Time to Respond: Public reporting burden for collecting information under this notice is estimated to average 1.280029 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Type of Respondents: Businesses or other for-profits and Farms.

Estimated Number of Respondents: 5,072.

Estimated Number of Responses per Respondent: 19.3.

Estimated Total Annual Responses: 97,897.

Estimated Average Time per Response: 1.280029.

Estimated Total Annual Burden on Respondents: 125,311 hours.

FSA is requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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William Beam,

Administrator, Farm Service Agency.

[FR Doc. 2026–08227 Filed 4–27–26; 8:45 am]

BILLING CODE 3411–E2–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2026–0034]

Retail Exemptions Adjusted Dollar Limitations

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: FSIS is announcing the dollar limitations on the amount of meat and meat products and poultry and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements.

DATES: *Applicable* May 28, 2026.

FOR FURTHER INFORMATION CONTACT: April Regonlinski, Assistant Administrator, Office of Policy and Program Development, FSIS, USDA; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat and meat food products and poultry and poultry products prepared for commerce are safe, wholesome, and properly labeled. Statutory provisions requiring inspection of the processing of meat and meat food products and poultry and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants in regard to products offered for sale to consumers in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS' regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food products and the processing of poultry and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under the aforementioned regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a retail store from exemption if the retail product sales of amenable products exceed either of two maximum limits: 25 percent of the dollar value of the total retail product sales or the calendar year retail dollar limitation set by the FSIS Administrator. The retail dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted retail dollar limitations in the **Federal Register** (see 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*)).

The CPI for 2025 reveals an annual average price increase for meat and meat food products of 5.86 percent, an average annual average price increase for Siluriformes fish and fish products of 2.01 percent, and an annual average price increase for poultry and poultry products of 1.73 percent.[1] [2] [3] When rounded to the nearest $100 dollar, the retail dollar limitation for meat and meat food products, including Siluriformes fish and fish products, increased by $6,000[4] and the retail dollar limitation for poultry and poultry products increased by $1,300.[5] In accordance with 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*), because the retail dollar limitations for meat and meat food products and poultry and poultry products increased by more than $500, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions to $109,600 for meat and meat food products and to $76,100 for poultry and poultry products for calendar year 2026.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and

[1] U.S. Bureau of Labor Statistics (BLS), Consumer Price Index for All Urban Consumers (CPI–U): Meats in U.S. city average, all urban consumers, not seasonally adjusted [Series ID CUUR0000SAF11211], accessed on January 13, 2026.

[2] BLS, CPI–U: Fish and seafood in U.S. city average, all urban consumers, not seasonally adjusted [Series ID CUUR0000SEFG], accessed on January 13, 2026.

[3] BLS, CPI–U: Poultry in U.S. city average, all urban consumers, not seasonally adjusted [Series ID CUUR0000SEFF], accessed on January 13, 2026.

[4] The base value for meat and meat products in 2025 was $103,641 rounded to the nearest $100 dollars to $103,600. The base value included $100,717 for meat and meat products and $2,924 to account for Siluriformes fish and fish products. The meat and meat products prices increased by 5.86 percent, or $5,902 ($100,717 × 0.0586 = $5,902), during 2025. The Siluriformes fish and fish products prices increased by 2.01 percent, or $59 [$2,924 × 0.0201 = $59], during 2025. Combined, the value for meat and meat products that include Siluriformes fish and fish products increased by $5,961 ($5,902 + $59 = $5,961). Since this change is more than $500, the retail dollar limitation is adjusted to $109,600 [$100,717 + $5,902) + ($2,924 + $59) = $109,602, which is rounded to $109,600].

[5] The base value for poultry and poultry products in 2025 was $74,832 rounded to the nearest $100 dollar to $74,800. Poultry and poultry products prices increased by 1.73 percent, or $1,295 ($74,832 × 0.0173 = $1,295), during 2025. Since this change is more than $500, the retail dollar limitation is adjusted to $76,100 ($74,832 + $1,295 = $76,127, which is rounded to $76,100).

information. This service is available at: *https://www.fsis.usda.gov/subscribe.* The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Justin Ransom,

Administrator.

[FR Doc. 2026–08261 Filed 4–27–26; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–433–815]

Certain Oil Country Tubular Goods From Austria: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable April 22, 2026.

FOR FURTHER INFORMATION CONTACT: Ian Riggs, Office IX, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3810.

SUPPLEMENTARY INFORMATION:

The Petition

On April 2, 2026, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain oil country tubular goods (OCTG) from Austria, filed in proper form on behalf of the U.S. OCTG Manufacturers Association,[1] United States Steel Corporation, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (USW) (collectively, the petitioners).[2] The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of OCTG from Austria, Taiwan, and the United Arab Emirates.[3]

Between April 6 and 15, 2026, Commerce requested supplemental information pertaining to certain aspects of the Petition in supplemental questionnaires.[4] On April 8 and 20, 2026, the petitioners filed timely responses to these requests for additional information.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of Austria (GOA) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of OCTG from Austria, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing OCTG in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry, because the petitioners are interested parties, as defined in sections 771(9)(C), (D), and (E) of the Act.[6] Commerce also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[7]

Period of Investigation (POI)

Because the Petition was filed on April 2, 2026, the POI is January 1, 2025 through December 31, 2025.[8]

Scope of the Investigation

The product covered by this investigation is OCTG from Austria. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[9] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary

[1] The members of the U.S. OCTG Manufacturers Association joining the CVD petition are Axis Pipe and Tube LLC, Borusan Pipe U.S., Inc., PTC Liberty Tubulars LLC, Tenaris USA, Vallourec STAR L.P., and Welded Tube USA, Inc.

[2] *See* Petitioners' Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties,'' dated April 2, 2026 (Petition).

[3] *Id.*

[4] *See* Commerce's Letters, ''Supplemental Questions,'' dated April 9, 2026 (First General Issues Supplemental Questionnaire); ''Supplemental Questions,'' dated April 6, 2026 (Austria CVD Supplemental Questionnaire); and ''Second Supplemental Questions,'' dated April 15, 2026 (Second General Issues Questionnaire).

[5] *See* Petitioners' Letters, ''Petitioners' Response to General Issues Supplemental Questions and Amendment to Volume I of the Petitions,'' dated April 14, 2026 (First General Issues Supplement); ''Response to Supplemental Questions,'' dated April 8, 2026 (Austria CVD Supplemental Response); and ''Petitioners' Response to Second General Issues Supplemental Questions and Amendment to Volume I of the Petitions,'' dated April 20, 2026 (Second General Issues Supplement).

[6] United States Steel Corporation is an interested party under section 771(9)(C) of the Act. The USW is a certified union representing workers engaged in the production of OCTG in the United States and therefore is an interested party under section 771(9)(D) of the Act. The U.S. OCTG Manufacturers Association is a trade association representing domestic producers of OCTG and therefore is an interested party under section 771(9)(E) of the Act.

[7] *See* section on ''Determination of Industry Support for the Petition,'' *infra.*

[8] *See* 19 CFR 351.204(b)(2).

[9] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

determination. If scope comments include factual information, all such factual information should be limited to public information.[10] Commerce requests that interested parties provide at the beginning of their scope comments a public executive summary for each comment or issue raised in their submission. Commerce further requests that interested parties limit their public executive summary of each comment or issue to no more than 450 words, not including citations. Commerce intends to use the public executive summaries as the basis of the comment summaries included in the analysis of scope comments. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on May 12, 2026, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on May 22, 2026, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of this investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party must contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[11] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOA of the receipt of the Petition and provided an opportunity for consultations with respect to the Petition.[12] Commerce held consultations with the GOA on April 20, 2026.[13]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[16] Based on our analysis of the information submitted on the record, we have determined that OCTG, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[17]

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioners provided the 2025 shipments of the domestic like product for the U.S. producers that support the Petitions, and compared this to the estimated total 2025 shipments of the domestic like product for the entire domestic industry.[18] Because total production data for the domestic like product for 2025 are not reasonably available to the petitioners, and the petitioners have established that shipments are a reasonable proxy for production data,[19] we relied on data provided by the

[10] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[12] *See* Commerce's Letter, ''Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated April 2, 2026.

[13] *See* Memorandum, ''Consultations with the Government of Austria,'' dated April 20, 2026; *see also* GOA's Letter, ''Consultation with the US Department of Commerce,'' dated April 22, 2026.

[14] *See* section 771(10) of the Act.

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd Algoma Steel Corp., Ltd.* v. *United States,* 865 F.2d 240 (Fed. Cir. 1989)).

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Checklist, ''Countervailing Duty Investigation Initiation Checklist: Certain Oil Country Tubular Goods from the Austria,'' dated concurrently with, and hereby adopted by, this notice (Austria CVD Initiation Checklist), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates'' (Attachment II). This checklist is on file electronically via ACCESS.

[17] For further discussion, *see* Attachment II of the Austria CVD Initiation Checklist.

[18] *Id.*

[19] *Id.*

petitioners for purposes of measuring industry support.[20]

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.[21] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[24] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[25]

Injury Test

Because Austria is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Austria materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product.

The petitioners contend that the industry's injured condition is illustrated by a significant increase in the volume of subject imports; reduced market share; underselling and price depression and/or suppression; and negative impact on financial performance.[26] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of OCTG from Austria benefit from countervailable subsidies conferred by the GOA. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 11 programs alleged by the petitioners. For a full discussion of the basis for our decision to initiate on each program, *see* the Austria CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petition, the petitioners identified three companies in Austria.[28] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in the investigation. Following standard practice in CVD investigations, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for imports under the appropriate Harmonized tariff Schedule of the United States (HTSUS) subheadings listed in the ''Scope of the Investigation,'' in the appendix.

On April 21, 2026, Commerce released CBP data on imports of OCTG from Austria under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on CBP data and/or respondent selection must do so within three days of the publication date of the notice of initiation of this investigation.[29] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://www.trade.gov/administrative-protective-orders.*

Distribution of a Copy of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOA via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of OCTG from Austria are materially injuring, or threatening material injury to, a U.S. industry.[30] A negative ITC determination will result in the investigation being terminated.[31] Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of

[20] For further discussion, *see* Attachment II of the Austria CVD Initiation Checklist.

[21] *Id.*

[22] *Id.; see also* section 702(c)(4)(D) of the Act.

[23] *See* Attachment II of the Austria CVD Initiation Checklist.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *See* Petition at Volume I (page 18 and Exhibit I–11).

[29] *See* Memorandum, ''Petition for the Imposition of Countervailing Duties on Imports of Certain Oil Country Tubular Goods from Austria: Release of U.S. Customs and Border Protection Entry Data,'' dated April 21, 2026.

[30] *See* section 703(a)(1) of the Act.

[31] *Id.*

allegations; (iii) publicly available information to value factors of production under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [32] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[33] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.[34] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.[35]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[36] Parties must use the certification formats provided in 19 CFR 351.303(g).[37] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[38]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: April 22, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by the investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any heat treatment, cutting, upsetting, threading, coupling, or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the OCTG.

Excluded from the scope of the investigation are: casing, tubing, or coupling stock containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.1010, 7304.29.1020, 7304.29.1030, 7304.29.1040, 7304.29.1050, 7304.29.1060, 7304.29.1080, 7304.29.2010, 7304.29.2020, 7304.29.2030, 7304.29.2040, 7304.29.2050, 7304.29.2060, 7304.29.2080, 7304.29.3110, 7304.29.3120, 7304.29.3130, 7304.29.3140, 7304.29.3150, 7304.29.3160, 7304.29.3180, 7304.29.4110, 7304.29.4120, 7304.29.4130, 7304.29.4140, 7304.29.4150, 7304.29.4160, 7304.29.4180, 7304.29.5015, 7304.29.5030, 7304.29.5045, 7304.29.5060, 7304.29.5075, 7304.29.6115, 7304.29.6130, 7304.29.6145, 7304.29.6160, 7304.29.6175, 7305.20.2000, 7305.20.4000, 7305.20.6000, 7305.20.8000, 7306.29.1030, 7306.29.1090, 7306.29.2000, 7306.29.3100, 7306.29.4100, 7306.29.6010, 7306.29.6050, 7306.29.8110, and 7306.29.8150.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076, 7304.39.0080, 7304.59.6000, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, 7304.59.8070, 7304.59.8080, 7305.31.4000, 7305.31.6090, 7306.30.5055, 7306.30.5090, 7306.50.5050, and 7306.50.5070.

The HTSUS subheadings and specifications above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

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BILLING CODE 3510–DS–P

[32] *See* 19 CFR 351.301(b).

[33] *See* 19 CFR 351.301(b)(2).

[34] *See* 19 CFR 351.302.

[35] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[36] *See* section 782(b) of the Act.

[37] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[38] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–553–003]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the Lao People's Democratic Republic: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the Lao People's Democratic Republic (Laos) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2025, through June 30, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable April 28, 2026.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on August 12, 2025.[1] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[2] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[3] On February 12, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now April 21, 2026.[4]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The products covered by this investigation are solar cells from Laos. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[6] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[7] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[8] Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices and constructed export prices in accordance with sections 772(a) and (b) of the Act. Because Commerce determined that Laos is a non-market economy (NME), within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773(c) of the Act.[9] For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of solar cells from Laos for the separate-rate companies and the Laos-wide entity, but do not exist for Solarspace Technology (Laos) Sole Co., Ltd (Solarspace). For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[10] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[11]

Separate Rate Companies and the Laos-Wide Entity

We preliminarily granted separate rates to certain respondents that we did

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India, Indonesia, and the Lao People's Democratic Republic: Initiation of Less-Than-Fair-Value Investigations,* 90 FR 38736 (August 12, 2025) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India, Indonesia, and the Lao People's Democratic Republic: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 91 FR 7960 (February 19, 2026).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the Lao People's Democratic Republic,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See Initiation Notice.*

[8] *See* Memorandum, ''Less-Than-Fair-Value Investigations of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Republic of India, the Republic of Indonesia, and the Lao People's Democratic Republic: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Scope Decision Memorandum).

[9] *See Silicon Metal from the Lao People's Democratic Republic: Final Affirmative Determination of Sales at Less Than Fair Value and Classification of the Lao People's Democratic Republic as a Non-Market Economy,* 91 FR 8407 (February 23, 2026), and accompanying Memorandum, ''Review of the Lao People's Democratic Republic's Status as a Market Economy Country,'' dated February 17, 2026.

[10] *See Initiation Notice,* 90 FR at 38740.

[11] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *https://enforcement.trade.gov/policy/bull05-1.pdf.*

not select for individual examination.[12] In calculating the rate for non-individually examined separate rate respondents in an NME LTFV investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy LTFV investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for those companies individually examined, excluding zero and *de minimis* estimated weighted-average dumping margins and any estimated weighted-average dumping margins based entirely under section 776 of the Act.

Solarspace is the only individually examined respondent in this investigation, and Commerce preliminarily calculated an estimated weighted-average dumping margin for Solarspace that is not zero, *de minimis,* or based entirely on facts available. Thus, we preliminarily assigned the weighted-average dumping margin calculated for Solarspace to the non-examined separate rate companies in this investigation (*i.e.,* JA Solar Vietnam Co. Ltd. (JA Solar); SolarSpace Technology (Hong Kong) Limited (SolarSpace Hong Kong); Trina Solar Energy Development Pte. Ltd. (Trina Solar); and Trina Solar Science & Technology (Thailand) Company Limited (Trina Thailand)). Additionally, because we preliminarily find that the Laos-wide entity cooperated in this investigation, we also preliminarily assigned the estimated weighted-average dumping margin calculated for Solarspace to the Laos-wide entity.[13]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Solarspace Technology (Laos) Sole Co., Ltd	Solarspace Technology (Laos) Sole Co., Ltd	22.46	22.06
Solarspace Technology (Laos) Sole Co., Ltd	JA Solar Vietnam Co. Ltd.	22.46	22.06
SolarSpace Technology (Hong Kong) Limited	SolarSpace Technology (Hong Kong) Limited	22.46	22.06
Solarspace Technology (Laos) Sole Co., Ltd	Trina Solar Energy Development Pte. Ltd	22.46	22.06
Solarspace Technology (Laos) Sole Co., Ltd	Trina Solar Science & Technology (Thailand) Company Limited.	22.46	22.06
Laos-Wide Entity		22.46	22.06

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which NV exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Laos producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Laos-wide entity; and (3) for all third-county exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Laotian producer/exporter combination (or the Laos-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from the following producer/exporter combinations: Solarspace/JA Solar; SolarSpace Hong Kong/SolarSpace Hong Kong; Solarspace/Trina Solar; Solarspace/Trina Thailand; and the Laos-wide entity. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from the producer/exporter combinations identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the chart of estimated weighted-average dumping margins the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire.

[12] *See* Preliminary Decision Memorandum at the section, ''Separate Rates,'' for further discussion.

[13] *Id.*

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[14] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[15]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[16] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the (1) party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On March 25, 2026, pursuant to 19 CFR 351.210(e), Solarspace requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[18] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: April 21, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building integrated

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2)

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Service Final Rule.*

[18] *See* Solarspace's Letter, ''Request to Postpone the Deadline for the Final Determination,'' dated March 25, 2026.

panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigations.

Excluded from the scope of the investigations are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm^2) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm^2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm^2) per panel; (C) include a keep-out area of approximately 1,200 cm^2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Further excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) no built-in inverter, (D) an integrated handle or a handle attached to the package for ease of carry, (E) one or more integrated kickstands for easy installation or angle adjustment, and (F) a wire either permanently connected or attached to the package terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure.

Also excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm^2 to 33,782 mm^2, (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics, (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (E) each panel is encased in a laminated material without stitching.

Also excluded from the scope of this investigation are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum

extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

(1) a total power output of 20 watts or less per panel;

(2) a maximum surface area of 1,000 cm^2 per panel;

(3) does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigations; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigations.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping duty Orders,* 90 FR 26786 (June 24, 2025); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders; Correction,* 90 FR 29843 (July 7, 2025); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia and Thailand: Amended Final Countervailing Duty Determinations; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Countervailing Duty Orders,* 90 FR 26791 (June 24, 2025).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Discussion of the Methodology
V. Adjustment Under Section 777A(f) of the Act
VI. Preliminary Affirmative Determination of Critical Circumstances, in Part
VII. Adjustments to Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
VIII. Currency Conversion
IX. Recommendation

[FR Doc. 2026–08192 Filed 4–27–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–942]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2024, through June 30, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable April 28, 2026.

FOR FURTHER INFORMATION CONTACT: Jonathan Schueler or Noah Wetzel, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9175 or (202) 482–7466, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on August 12, 2025.[1] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,[2] and, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[3] On February 19, 2026, based on petitioners' request,[4] Commerce postponed the preliminary determination of this investigation until April 21, 2026.[5]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[6] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The products covered by this investigation are solar cells from India. For a complete description of the scope of this investigation, *see* Appendix I.

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India, Indonesia, and the Lao People's Democratic Republic: Initiation of Less-Than-Fair-Value Investigations,* 90 FR 38736 (August 12, 2025) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See* Petitioner's Letter, ''Request to Postpone Preliminary Determinations,'' dated February 3, 2026. The petitioner is the Alliance for American Solar Manufacturing and Trade.

[5] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India, Indonesia, and the Lao People's Democratic Republic: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 91 FR 7960 (February 19, 2026).

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[7] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[8] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[9] Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) of the Act, Commerce has preliminarily relied upon facts otherwise available for Mundra Solar PV Limited (Mundra Solar PV), Mundra Solar Energy Limited (Mundra Solar Energy), Kowa Company Ltd (Kowa), and Premier Energies Photovoltaic Private Limited (Premier Energies), the mandatory respondents in this investigation, because these four companies failed to submit the necessary information to calculate an antidumping duty (AD) margin in this investigation. Further, Commerce preliminarily determines that Mundra Solar Energy, Mundra Solar PV, Kowa, and Premier Energies failed to cooperate by not acting to the best of their ability to comply with Commerce's requests for information and Commerce is using an adverse inference in selecting from among the facts otherwise available (*i.e.,* applying adverse facts available (AFA) to these respondents, in accordance with section 776(b) of the Act). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances exist for Mundra Solar Energy, Mundra Solar PV, Kowa, and Premier Energies, and that critical circumstances do not exist for all other exporters and producers of the subject merchandise. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. Commerce has preliminarily determined the estimated weighted-average dumping margin for each of the individually examined respondents under section 776 of the Act. Consequently, pursuant to section 735(c)(5)(B) of the Act, Commerce's normal practice under these circumstances has been to calculate the all-others rate as a simple average of the alleged dumping margin(s) from the petition.[10] However, in the Petition, the petitioner alleged a single dumping margin that is calculated using the appropriate customs duties (*i.e.,* 123.04 percent), thus is the only valid rate in the Petition.[11] Therefore, consistent with our practice, we preliminarily assign the dumping margin alleged in the Petition, which is 123.04 percent to all other producers and exporters in this investigation.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Mundra Solar PV Limited	* 123.04	107.77
Mundra Solar Energy Limited	* 123.04	107.77
Kowa Company Ltd	* 123.04	107.77
Premier Energies Photovoltaic Private Limited	* 123.04	107.77
All Others	123.04	107.77

* Rate based on facts available with adverse inferences.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See Initiation Notice.*

[9] *See* Memorandum, ''Less-Than-Fair-Value Investigations of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Republic of India, the Republic of Indonesia, and the Lao People's Democratic Republic: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[10] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan,* 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances,* 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances,* 79 FR 14476, 14477 (March 14, 2014).

[11] *See Initiation Notice,* 90 FR at 38739, and accompanying Checklist, ''AD Investigation Initiation Checklist,'' dated August 6, 2025.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by Mundra Solar Energy, Mundra Solar PV, Kowa, and Premier Energies. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producers or exporters identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated AD cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually examined companies Mundra Solar Energy, Mundra Solar PV, Kowa, and Premier Energies in this investigation, in accordance with section 776(b) of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

Because the examined respondents in this investigation did not provide information requested by Commerce, and Commerce preliminarily determines each of the examined respondents to have been uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(i), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 30 days after the date of publication of this preliminary determination. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[12] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[13]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[14] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the (1) party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[16] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS[17] and

[12] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2)

[14] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[15] *See APO and Service Procedures.*

[16] *See* 19 CFR 351.310(d).

[17] *See* 19 CFR 351.303.

must be served on interested parties.[18] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: April 21, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigation.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm^2) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm^2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm^2) per panel; (C) include a keep-out area of approximately 1,200 cm^2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Further excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off-grid small portable crystalline silicon photovoltaic panels, with or without

[18] *See* 19 CFR 351.303(f).

a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) no built-in inverter, (D) an integrated handle or a handle attached to the package for ease of carry, (E) one or more integrated kickstands for easy installation or angle adjustment, and (F) a wire either permanently connected or attached to the package terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure.

Also excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm^2 to 33,782 mm^2, (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics, (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (E) each panel is encased in a laminated material without stitching.

Also excluded from the scope of this investigation are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

(1) a total power output of 20 watts or less per panel;

(2) a maximum surface area of 1,000 cm^2 per panel;

(3) does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigation; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigation.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping duty Orders,* 90 FR 26786 (June 24, 2025); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders; Correction,* 90 FR 29843 (July 7, 2025); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia and Thailand: Amended Final Countervailing Duty Determinations; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Countervailing Duty Orders,* 90 FR 26791 (June 24, 2025).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
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[FR Doc. 2026–08194 Filed 4–27–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–846]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from Indonesia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2024, through June 30, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable April 28, 2026.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Thomas Cloyd, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2371or (202) 482–1246, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended

(the Act). Commerce published the notice of initiation of this investigation on August 12, 2025.[1] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[2] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[3] On February 19, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now April 21, 2026.[4]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The products covered by this investigation are solar cells from Indonesia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[6] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[7] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[8] Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, we applied facts otherwise available to PT Blue Sky Solar Indonesia (Blue Sky). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist for Blue Sky and PT REC Solar Energy Indonesia (REC Solar), and that critical circumstances exist for all other producers and/or exporters of solar cells from Indonesia. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an estimated weighted-average dumping margin for REC Solar and applied that margin to Blue Sky which is not zero, *de minimis,* or based entirely on facts otherwise available. Therefore, the all-others rate is based on the estimated weighted-average dumping margin calculated for REC Solar.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent) [9]
PT Blue Sky Solar Indonesia	35.17
PT REC Solar Energy Indonesia	35.17
All Others	35.17

[9] The cash deposit rates have not been adjusted for subsidy offsets because Blue Sky and REC Solar did not receive any export subsidies in the companion countervailing duty investigation.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from India, Indonesia and the Lao People's Democratic Republic: Initiation of Less-Than-Fair-Value Investigations,* 90 FR 38736 (August 12, 2025) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from India, Indonesia and the Lao People's Democratic Republic: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 91 FR 7960 (February 19, 2026).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Indonesia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See Initiation Notice.*

[8] *See* Memorandum, ''Less-Than-Fair-Value Investigations of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Republic of India, the Republic of Indonesia, and the Lao People's Democratic Republic: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by all other producers and/or exporters. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer(s) or exporter(s) identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. We will notify parties of the briefing schedule at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[10] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[11]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[12] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: April 21, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigations.

Excluded from the scope of the investigations are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose

[10] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2)

[12] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[13] *See APO and Service Procedures.*

function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm^2) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm^2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm^2) per panel; (C) include a keep-out area of approximately 1,200 cm^2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Further excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) no built-in inverter, (D) an integrated handle or a handle attached to the package for ease of carry, (E) one or more integrated kickstands for easy installation or angle adjustment, and (F) a wire either permanently connected or attached to the package terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure.

Also excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm^2 to 33,782 mm^2, (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics, (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 cm^2 per panel, (C) do not include a built-in inverter, (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (E) each panel is encased in a laminated material without stitching.

Also excluded from the scope of this investigation are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

(1) a total power output of 20 watts or less per panel;

(2) a maximum surface area of 1,000 cm^2 per panel;

(3) does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the

investigations; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigations.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping duty Orders,* 90 FR 26786 (June 24, 2025); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders; Correction,* 90 FR 29843 (July 7, 2025); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia and Thailand: Amended Final Countervailing Duty Determinations; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Countervailing Duty Orders,* 90 FR 26791 (June 24, 2025).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
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V. Preliminary Affirmative Determination of Critical Circumstances, in Part
VI. Currency Conversion
VII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–814, A–583–881, A–520–812]

Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable April 22, 2026.

FOR FURTHER INFORMATION CONTACT: Jose Rivera at (202) 482–0842 (Austria), Monica Gillis at (202) 482–6384 (Taiwan), and Paul Kebker at (202) 482–2254 (the United Arab Emirates (UAE)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On April 2, 2026, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain oil country tubular goods (OCTG) from Austria, Taiwan, and the UAE, filed in proper form on behalf of the U.S. OCTG Manufacturers Association,[1] United States Steel Corporation, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (USW) (collectively, the petitioners).[2] The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of OCTG from Austria.[3]

Between April 7 and 15, 2026, Commerce requested supplemental information pertaining to certain aspects of the Petitions in supplemental questionnaires.[4] Between April 10 and 20, 2026, the petitioners filed timely responses to these requests for additional information.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of OCTG from Austria, Taiwan, and the UAE are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the OCTG industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions were accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry, because the petitioners are interested parties, as defined in sections 771(9)(C), (D), and (E) of the Act.[6] Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested LTFV investigations.[7]

Periods of Investigation (POI)

Because the Petitions were filed on April 2, 2026, pursuant to 19 CFR 351.204(b)(1), the POI for Austria, Taiwan, and the UAE LTFV investigations is April 1, 2025, through March 31, 2026.

Scope of the Investigations

The product covered by these investigations is OCTG from Austria, Taiwan, and the UAE. For a full description of the scope of these

[1] The members of the U.S. OCTG Manufacturers Association joining the AD petitions are Axis Pipe and Tube LLC, Borusan Pipe U.S., Inc., PTC Liberty Tubulars LLC, Tenaris USA, Vallourec STAR L.P., and Welded Tube USA, Inc.

[2] *See* Petitioners' Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties,'' dated April 2, 2026 (Petitions).

[3] *Id.*

[4] *See* Commerce's Letters, ''Supplemental Questions,'' dated April 9, 2026; *see also* Country-Specific AD Supplemental Questionnaires: First Austria AD Supplemental, First Taiwan AD Supplemental, and First UAE AD Supplemental dated April 7 and 8, 2026; Country-Specific AD Supplemental Questionnaires: Second Austria AD Supplemental, Second Taiwan AD Supplemental, and Second UAE AD Supplemental, dated April 15, 2026; and ''Second Supplemental Questions,'' dated April 15, 2026.

[5] *See* Petitioners' Letters, ''Petitioners' Response to General Issues Supplemental Questions and Amendment to Volume I of Petitions,'' dated April 14, 2026 (First General Issues Supplement); *see also* Country-Specific AD Supplemental Responses: Austria AD Supplement, Taiwan AD Supplement, and UAE AD Supplement, dated April 13 and 14, 2026; Second Country-Specific AD Supplemental Responses: Second Austria AD Supplement, Second Taiwan AD Supplement, and Second UAE AD Supplement; and ''Petitioners' Response to the Second General Issues Supplemental Questions and Amendment to Volume I of the Petitions,'' dated April 20, 2026 (Second General Issues Supplement).

[6] United States Steel Corporation is an interested party under section 771(9)(C) of the Act. The USW is a certified union representing workers engaged in the production of OCTG in the United States and therefore is an interested party under section 771(9)(D) of the Act. The U.S. OCTG Manufacturers Association is a trade association representing domestic producers of OCTG and therefore is an interested party under section 771(9)(E) of the Act.

[7] *See* section on ''Determination of Industry Support for the Petitions,'' *infra.*

investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information, all such factual information should be limited to public information.[9] Commerce requests that interested parties provide at the beginning of their scope comments a public executive summary for each comment or issue raised in their submission. Commerce further requests that interested parties limit their public executive summary of each comment or issue to no more than 450 words, not including citations. Commerce intends to use the public executive summaries as the basis of the comment summaries included in the analysis of scope comments. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on May 12, 2026, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on May 22, 2026, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[10] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of OCTG to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe OCTG, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on May 12, 2026, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on May 22, 2026, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the each of the LTFV investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC apply the same statutory definition regarding the domestic like product,[11] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[12]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[11] *See* section 771(10) of the Act.

[12] *See USEC, Inc.* v. *United States,* 132 F.Supp 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F.Supp. 639, 644 (CIT 1988), *aff'd Algoma Steel Corp., Ltd.* v. *United States,* 865 F.2d 240 (Fed. Cir. 1989)).

investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of these investigations.[13] Based on our analysis of the information submitted on the record, we have determined that OCTG, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[14]

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioners provided the total 2025 shipments of the domestic like product for the U.S. producers that support the Petitions, and compared this to the estimated total 2025 shipments of the domestic like product for the entire domestic industry.[15] Because total production data for the domestic like product for 2025 are not reasonably available to the petitioners, and the petitioners have established that shipments are a reasonable proxy for production data,[16] we relied on the data provided by the petitioners for purposes of measuring industry support.[17]

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petitions.[18] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[19] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[20] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[21] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[22]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

The petitioners contend that the industry's injured condition is illustrated by a significant increase in the volume of subject imports; reduced market share; underselling and price depression and/or suppression; and negative impact on financial performance.[24] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate LTFV investigations of imports of OCTG from Austria, Taiwan, and the UAE. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For Austria, Taiwan, and the UAE, the petitioners based export price (EP) on POI average unit values (AUVs) derived from official import statistics.[26] For each country, the petitioners made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.[27]

Normal Value [28]

For Austria, Taiwan, and the UAE, the petitioners stated that they were unable to obtain home market or third-country pricing information for OCTG produced in the respective countries to use as the basis for NV.[29] Therefore, for Austria, Taiwan, and the UAE, the petitioners calculated NV based on CV. For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.''

Normal Value Based on Constructed Value

As noted above for Austria, Taiwan, and the UAE, the petitioners stated that they were unable to obtain home market or third country prices for OCTG to use as a basis for NV. Therefore, for Austria, Taiwan, and the UAE, the petitioners calculated NV based on CV.[30]

Pursuant to section 773(e) of the Act, the petitioners calculated CV as the sum of the cost of manufacturing, selling, general, and administrative (SG&A) expenses, financial expenses, and profit.[31] For Austria, Taiwan, and the UAE, in calculating the cost of manufacturing, the petitioners relied on a U.S. producer's production experience

[13] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Checklists, ''Antidumping Duty Investigation Initiation Checklists: Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates,'' dated concurrently with, and hereby adopted by, this notice (Country-Specific AD Initiation Checklists), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates'' (Attachment II). These checklists are on file electronically via ACCESS.

[14] For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

[15] *Id.*

[16] *Id.*

[17] For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

[18] *See* Attachment II of the Country-Specific AD Initiation Checklists.

[19] *Id.; see also* section 732(c)(4)(D) of the Act.

[20] *See* Attachment II of the Country-Specific AD Initiation Checklists.

[21] *Id.*

[22] *Id.*

[23] For further discussion, *see* Country-Specific AD Initiation Checklists at Attachment III, ''Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates.''

[24] *Id.*

[25] *Id.*

[26] *See* Country-Specific AD Initiation Checklists.

[27] *Id.*

[28] In accordance with section 773(b)(2) of the Act, for the Austria, Taiwan, and the UAE investigations, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[29] *See* Country-Specific AD Initiation Checklists.

[30] *Id.*

[31] *Id.*

and input consumption rates for OCTG, valued using publicly available information applicable to Austria, Taiwan, and the UAE.[32] In calculating SG&A expenses, financial expenses, and profit ratios for Austria, the petitioners relied on the fiscal year 2024–2025 financial statements of a producer of identical merchandise domiciled in Austria. In calculating SG&A expenses, financial expenses, and profit ratios for Taiwan and the UAE, the petitioners relied on the fiscal year 2024–2025 financial statements of a producer of identical merchandise domiciled in a third country.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of OCTG from Austria, Taiwan, and the UAE are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP or NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for OCTG from Austria, Taiwan, and the UAE covered by this initiation range from (1) Austria—43.64 to 55.16 percent; (2) Taiwan—73.68 to 75.31 percent; and (3) the UAE—124.15 to 126.08 percent.[33]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating LTFV investigations to determine whether imports of OCTG from Austria, Taiwan, and the UAE are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioners identified three companies in Austria, seven companies in Taiwan, and 16 companies in the UAE as producers/exporters of OCTG.[34] Following standard practice in LTFV investigations involving market economy countries, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resource, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the ''Scope of the Investigations,'' in the appendix.

On April 21, 2026, Commerce released CBP data on imports of OCTG from Austria, Taiwan, and the UAE under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.[35] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under an APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://www.trade.gov/administrative-protective-orders.*

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Governments of Austria, Taiwan, and the UAE via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of OCTG from Austria, Taiwan, and/or the UAE are materially injuring, or threatening material injury to, a U.S. industry.[36] A negative ITC determination for Austria, Taiwan, and/or the UAE will result in the investigation being terminated with respect to that country.[37] Otherwise, these LTFV investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [38] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[39] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegations

Section 773(e) of the Act addresses the concept of a particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act (*i.e.,* a cost-based PMS allegation), the submission must be filed in accordance with the requirements of 19 CFR 351.416(b), and Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a cost-based PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

[32] *Id.*

[33] *Id.*

[34] *See* Petitions at Volume I (page 17 and Exhibits I–11 through I–13); *see also* First General Issues Supplement at 1–2.

[35] *See* Memorandum, ''Release of U.S. Customs and Border Protection Entry Data,'' dated April 21, 2026.

[36] *See* section 733(a) of the Act.

[37] *Id.*

[38] *See* 19 CFR 351.301(b).

[39] *See* 19 CFR 351.301(b)(2).

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), sets a deadline for the submission of cost-based PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a cost-based PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

We note that a PMS allegation filed pursuant to sections 773(a)(1)(B)(ii)(III) or 773(a)(1)(C)(iii) of the Act (*i.e.,* a sales-based PMS allegation) must be filed within 10 days of submission of a respondent's initial section B questionnaire response, in accordance with 19 CFR 351.301(c)(2)(i) and 19 CFR 351.404(c)(2).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.[40] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.[41]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[42] Parties must use the certification formats provided in 19 CFR 351.303(g).[43] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[44]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: April 22, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by the investigations is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigations also covers OCTG coupling stock.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any heat treatment, cutting, upsetting, threading, coupling, or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the OCTG.

Excluded from the scope of the investigations are: casing, tubing, or coupling stock containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.1010, 7304.29.1020, 7304.29.1030, 7304.29.1040, 7304.29.1050, 7304.29.1060, 7304.29.1080, 7304.29.2010, 7304.29.2020, 7304.29.2030, 7304.29.2040, 7304.29.2050, 7304.29.2060, 7304.29.2080, 7304.29.3110, 7304.29.3120, 7304.29.3130, 7304.29.3140, 7304.29.3150, 7304.29.3160, 7304.29.3180, 7304.29.4110, 7304.29.4120, 7304.29.4130, 7304.29.4140, 7304.29.4150, 7304.29.4160, 7304.29.4180, 7304.29.5015, 7304.29.5030, 7304.29.5045, 7304.29.5060, 7304.29.5075, 7304.29.6115, 7304.29.6130, 7304.29.6145, 7304.29.6160, 7304.29.6175, 7305.20.2000, 7305.20.4000, 7305.20.6000, 7305.20.8000, 7306.29.1030, 7306.29.1090, 7306.29.2000, 7306.29.3100, 7306.29.4100, 7306.29.6010, 7306.29.6050, 7306.29.8110, and 7306.29.8150.

The merchandise subject to the investigations may also enter under the following HTSUS item numbers: 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076, 7304.39.0080, 7304.59.6000, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, 7304.59.8070, 7304.59.8080, 7305.31.4000, 7305.31.6090, 7306.30.5055, 7306.30.5090, 7306.50.5050, and 7306.50.5070.

The HTSUS subheadings and specifications above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

[FR Doc. 2026–08196 Filed 4–27–26; 8:45 am]

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[40] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[41] *See* 19 CFR 351.302; *see also, e.g., Time Limits Final Rule.*

[42] *See* section 782(b) of the Act.

[43] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2023) (*Final Rule*). Additional information regarding the *Final Rule* is available at *https://access.trade.gov/Resources/filing/index.html.*

[44] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF710]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Military Readiness Activities in the Mariana Islands Training and Testing Study Area

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

ACTION: Notice; receipt of application for regulations and letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Department of the Navy (including the U.S. Navy and the U.S. Marine Corps (Navy)) and on behalf of the U.S. Coast Guard (Coast Guard), U.S. Army (Army), and U.S. Air Force (Air Force); hereafter, Navy, Coast Guard, Army, and Air Force are collectively referred to as Action Proponents) for authorization to take marine mammals incidental to training, testing, and modernization and sustainment of ranges conducted in the Mariana Islands Training and Testing (MITT) Study Area over the course of 7 years from July 2027 through July 2034. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Action Proponents' request for the development and implementation of regulations governing the incidental taking of marine mammals and issuance of a 7-year Letter of Authorization (LOA). NMFS invites the public to provide information, suggestions, and comments on the Action Proponents' application and request.

DATES: Comments and information must be received no later than May 28, 2026.

ADDRESSES: Comments should be addressed to Ben Laws, Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be sent to *ITP.davis@noaa.gov.* An electronic copy of the Action Proponents' application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.* In case of problems accessing the document, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will be generally posted online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Leah Davis, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

The National Defense Authorization Act (NDAA) for Fiscal Year 2004 (Pub. L. 108–136) amended section 101(a)(5) of the MMPA to remove the ''small numbers'' and ''specified geographical region'' provisions and amended the definition of ''harassment'' as applied to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). On August 13, 2018, the NDAA for Fiscal Year 2019 (Pub. L. 115–232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to 7 years.

Summary of Request

On February 23, 2026, NMFS received an application from the Action Proponents requesting authorization to take marine mammals, by Level A and Level B harassment, incidental to training, testing, and modernization and sustainment of ranges (all characterized as military readiness activities) including the use of sonar and other transducers and in-water detonations in the MITT Study Area. In response to our comments and following information exchange, the Action Proponents submitted a final revised application that we determined was adequate and complete on April 21, 2026. The Action Proponents requested the regulations and subsequent LOA be valid for 7 years beginning in July 2027.

This will be the fourth time NMFS has promulgated incidental take regulations pursuant to the MMPA relating to similar military readiness activities in the MITT Study Area, following those effective beginning August 3, 2010 (75 FR 45527, August 3, 2010), August 3, 2015 (80 FR 46112, August 3, 2015), and from July 31, 2020, through July 30, 2027 (85 FR 46302, July 31, 2020). For this fourth rulemaking, the Action Proponents are proposing to conduct similar activities as they have conducted over the past 16 years under the previous rulemakings.

Description of the Specified Activity

The MITT Study Area consists primarily of the Mariana Islands Range Complex (MIRC) and the Transit Corridor connecting the MITT Study Area with the Hawaii portion of the Hawaii-California Training and Testing Study Area as well as high-seas areas to the west and north of the MIRC. The MITT Study Area includes the at sea areas of the MIRC, and adjacent airspace, Navy pierside locations and port transit channels, bays, harbors, inshore waterways, and amphibious landing areas. Land components associated with the range complexes are generally not included in the MITT Study Area with one exception, certain

land-based activities conducted on Farallon de Medinilla (FDM) (see table 1–4 of the application and appendix A (Military Readiness Activities Descriptions) of the 2026 MITT Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for more information). However, activities conducted at FDM are not expected to affect marine mammals and are not discussed further. Please refer to figure 1–1 of the application for a map of the MITT Study Area.

The following types of training and testing, which are classified as military readiness activities pursuant to section 315(f) of Public Law 101–314 (16 U.S.C. 703), are included in the specified activity described in the application:

- Anti-submarine warfare (sonar and other transducers),
- Mine warfare (sonar and other transducers, in-water detonations),
- Surface warfare (sonar and other transducers, in-water detonations),
- Other training (sonar and other transducers),
- Unmanned system (in-water detonations), and
- Vessel evaluation (sonar and other transducers, in-water detonations)

The application includes proposed mitigation measures for marine mammals that would be implemented during training and testing activities in the MITT Study Area (see section 11 of the application). Proposed activity-based mitigation would generally involve: (1) the use of one or more trained Lookouts to diligently observe for specific biological resources within a mitigation zone; (2) requirements for Lookouts to immediately communicate sightings of specific biological resources to the appropriate watch station for information dissemination; and (3) requirements for the watch station to implement mitigation (*e.g.,* halt an activity) until certain recommencement conditions have been met. Mitigation measures are also proposed for specific mitigation areas and consist of a variety of measures including, but not limited to: (1) not conducting hull-mounted mid-frequency active sonar; (2) conducting a limited amount of hull-mounted mid-frequency active sonar per year; and (3) not expending explosive ordnance.

The Action Proponents also propose to undertake monitoring and reporting efforts to better understand the impacts of their activities on marine mammals and their habitat.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Action Proponents' request (see **ADDRESSES** section). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Action Proponents, if appropriate.

Dated: April 22, 2026.

Shannon Bettridge,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–08207 Filed 4–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–213–000.
Applicants: Honey Mesquite Wind Farm, LLC.
Description: Honey Mesquite Wind Farm, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 4/14/26.
Accession Number: 20260414–5181.
Comment Date: 5 p.m. ET 5/14/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER25–2651–002.
Applicants: Wilmot Energy Center II, LLC.
Description: Notice of Change in Status of Wilmot Energy Center II, LLC.
Filed Date: 4/17/26.
Accession Number: 20260417–5299.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2279–000; TS26–3–000.
Applicants: Crossover Wind LLC, Crossover Wind LLC.
Description: Request for Temporary Waiver, et al. of Crossover Wind LLC.
Filed Date: 4/21/26.
Accession Number: 20260421–5255.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2285–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: 205(d) Rate Filing: 2026–04–23 GRE–FSA–Nobles–790–0.0.0 to be effective 4/24/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5031.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2286–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Service Agreement No. 816 to be effective 3/30/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5041.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2287–000.
Applicants: Black Hills Power, Inc.
Description: 205(d) Rate Filing: Ministerial Clean Up Tariff Filing to be effective 8/1/2024.
Filed Date: 4/23/26.
Accession Number: 20260423–5043.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2288–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: NSA, Original Service Agreement No. 8004; Queue No. AE1–146 to be effective 6/23/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5046.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2289–000.
Applicants: Public Service Company of New Hampshire.
Description: 205(d) Rate Filing: Granite Shore Power, LLC—Viability Assessment Agreement to be effective 4/24/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5055.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2290–000.
Applicants: Dominion Energy South Carolina, Inc.
Description: 205(d) Rate Filing: DESC—SCPSA Affected System Study Agr to be effective 6/23/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5073.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2291–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 8005; AE1–108 to be effective 6/23/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5080.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2292–000.
Applicants: E South Hero Co. LLC.
Description: Initial Rate Filing: Market-Based Rate Application to be effective 6/23/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5083.
Comment Date: 5 p.m. ET 5/14/26.

Docket Numbers: ER26–2293–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of SA No. 6708; Project Identifier No. AF1–075 to be effective 6/23/2026.

Filed Date: 4/23/26.
Accession Number: 20260423–5139.
Comment Date: 5 p.m. ET 5/14/26.
Docket Numbers: ER26–2294–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Mutual Agreement to Terminate PJM–NJBPU SAA Agreement and Notice of Termination to be effective 4/24/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5151.
Comment Date: 5 p.m. ET 5/14/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: April 23, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–08211 Filed 4–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2740–055]

Duke Energy Carolinas, LLC; Notice of Reasonable Period of Time for Water Quality Certification Application

On April 17, 2026, Duke Energy Carolinas, LLC (Duke Energy), submitted to the Federal Energy Regulatory Commission (Commission) documentation from the South Carolina Department of Environmental Services (South Carolina DES) that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Duke Energy, in conjunction with the above captioned project on April 16, 2026. Pursuant to the Commission's regulations,[1] we hereby notify the South Carolina DES of the following:

Date of Receipt of the Certification Request: April 16, 2026.

Reasonable Period of Time to Act on the Certification Request: One year, April 16, 2027.

If South Carolina DES fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

(Authority: 18 CFR 2.1.)

Dated: April 23, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–08215 Filed 4–27–26; 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: RP26–771–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Report of Penalty Revenues of Cameron Interstate Pipeline, LLC.
Filed Date: 4/23/26.
Accession Number: 20260423–5050.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: RP26–772–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: IT Revenue Sharing Report of Cameron Interstate Pipeline, LLC.
Filed Date: 4/23/26.
Accession Number: 20260423–5056.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: RP26–773–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Operational Transactions Report of Cameron Interstate Pipeline, LLC.
Filed Date: 4/23/26.
Accession Number: 20260423–5057.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: RP26–774–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Operational Imbalances and Cash-Out Activity report for 2025 of Cameron Interstate Pipeline, LLC.
Filed Date: 4/23/26.
Accession Number: 20260423–5060.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: RP26–775–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Transportation Imbalance and Cash Out Activity report of Cameron Interstate Pipeline, LLC.
Filed Date: 4/23/26.
Accession Number: 20260423–5061.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: RP26–776–000.
Applicants: Sierrita Gas Pipeline LLC.
Description: 4(d) Rate Filing: 2026 Apr Quarterly FL&U Filing to be effective 6/1/2026.
Filed Date: 4/23/26.
Accession Number: 20260423–5108.
Comment Date: 5 p.m. ET 5/5/26.

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, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: April 23, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–08209 Filed 4–27–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 5.23(b)(2).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–198–000]

Kinder Morgan Louisiana Pipeline LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on April 13, 2026, Kinder Morgan Louisiana Pipeline LLC (KMLP), 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208, and 157.211 of the Commission's regulations under the Natural Gas Act (NGA), and KMLP's blanket certificate issued in Docket No. CP06–451–000,[1] for authorization to construct, install, operate, and maintain certain header and metering facilities in Jefferson County, Texas (Texas Header Project). The project involves the installation of an approximately 500-foot, 48-inch-diameter pipeline header capable of wheeling up to 5,000,000 dekatherms per day, up to two initial bidirectional interconnections to be made at the request of Golden Pass LNG, LLC (Golden Pass), a bidirectional interconnection with Trident Intrastate Pipeline, a bidirectional interconnection to the Texas Access Project facilities under review in Docket No. CP26–136–000,[2] the ability to accept gas nominations into and from the KMLP mainline, a 2.5 billion cubic feet per day meter station connecting the 48-inch-diameter header to the Golden Pass terminal facility located in Jefferson County, Texas, and potential future bidirectional interconnections. KMLP estimates the cost of the Texas Header Project to be approximately $39,000,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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

Any questions concerning this request should be directed to Tina Hardy, Director, Regulatory, Kinder Morgan Louisiana Pipeline LLC, 1001 Louisiana Street, Houston, Texas 77002, by phone at (205) 325–3668, or by email at *Tina_Hardy@kindermorgan.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on June 22, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[3] any person [4] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[5] and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on June 22, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [6] and the regulations under the NGA [7] by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on June 22, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission

[1] *Kinder Morgan Louisiana Pipeline LLC,* 119 FERC ¶ 61,309 (2007).

[2] KMLP is proposing to construct the Texas Access Project (TAP), which will enable KMLP to access new natural gas supplies in Texas, including from the Trident Intrastate Pipeline, for delivery into KMLP's mainline in Cameron Parish, Louisiana. TAP is the subject of a separate Section 7(c) certificate application in Docket No. CP26–136–000.

[3] 18 CFR 157.205.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 157.205(e).

[6] 18 CFR 385.214.

[7] 18 CFR 157.10.

considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on June 22, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26–198–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [8]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP26–198–000.

To file via USPS: Debbie-Anne A. Reese, Secretary Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Secretary Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: Tina Hardy, Director, Regulatory, Kinder Morgan Louisiana Pipeline LLC, 1001 Louisiana Street, Houston, Texas 77002, or by email (with a link to the document) at *Tina_Hardy@kindermorgan.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. 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. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

(Authority: 18 CFR 2.1)

Dated: April 23, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–08214 Filed 4–27–26; 8:45 am]

BILLING CODE 6717–01–P

[8] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2020–0527; FRL–10169.1–01–OLEM]

Interim PFAS Destruction and Disposal Guidance; Notice of Availability for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for public comment.

SUMMARY: The National Defense Authorization Act for Fiscal Year 2020 (FY 2020 NDAA) was signed into law on December 19, 2019 and directs the U.S. Environmental Protection Agency (EPA) to publish interim guidance on the destruction and disposal of perfluoroalkyl and polyfluoroalkyl substances (PFAS) and materials containing PFAS and to update the guidance at least every three years, as appropriate. The EPA is releasing an update to the April 16, 2024, interim guidance for public comment. The updated guidance builds on information pertaining to technologies that may be feasible and appropriate for the destruction or disposal of PFAS and PFAS-containing materials. The 2026 interim guidance also identifies key data gaps and uncertainties that must be resolved before the EPA can issue more definitive recommendations about PFAS destruction and disposal technologies.

DATES: Comments must be received on or before June 29, 2026.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2020–0527, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OLEM Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday-Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this document. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Jonathan J. Tso, Office of Superfund and Emergency Management (5401T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–940–6934; email address: *tso.jonathan@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Does this action apply to me?

This interim guidance provides a summary of EPA's current knowledge of technologies for destruction or disposal of PFAS and PFAS-containing materials. The primary audience of this guidance is decision makers who need to identify the most effective means for destroying or disposing of PFAS-containing materials and wastes. The audience may also include regulators, waste managers, and the public, including affected communities.

Thomas D. Croci,

Acting Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2026–08174 Filed 4–27–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[343187]

Sunshine Act Meeting; Open Commission Meeting Thursday, April 30, 2026

April 23, 2026

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 30, 2026 which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access, and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau/office	Subject
1	Space	*Title:* Modernizing Spectrum Sharing for Satellite Broadband (SB Docket No. 25–157). *Summary:* The Commission will consider a Report and Order that would promote efficient spectrum sharing between geostationary and non-geostationary satellite systems. To take account of today's satellite technology and operations and to promote expanded services to American consumers, the item would update the decades-old framework for how non-geostationary and geostationary satellite systems share spectrum.
2	Consumer and Governmental Affairs	*Title:* Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59); Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02–278). *Summary:* The Commission will consider a Further Notice of Proposed Rulemaking to enhance existing ''Know-Your-Customer'' (KYC) requirements by seeking comment on the information that originating providers must obtain from customers before they make calls, how providers should verify that information, and proposing to better set penalties for violations of these requirements proportionate to harm. This would fill gaps between general KYC requirements and the types of rigorous steps necessary to protect consumers from illegal calls.
3	Office of Engineering and Technology	*Title:* Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program (ET Docket No. 24–136). *Summary:* The Commission will consider a Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking aimed at strengthening national security and reciprocity through the equipment authorization program. The item would incentivize U.S. and allied testing and certification by creating a fast-track review process for applications tested in Trusted Test Labs, direct updates to post-market surveillance procedures, bolster enforcement tools, and establish confidential channels for industry to report potential violations or national security concerns.
4	Wireline Competition	*Title:* Protecting Against National Security Threats in Domestic Telecommunications Service (WC Docket No. 26–82). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would continue its efforts to protect the nation's telecommunications networks by proposing to exclude entities identified on the ''Covered List'' from providing domestic interstate telecommunications services pursuant to blanket authority under section 214 of the Communications Act, and seek comment on other potential exclusions from blanket authority under section 214 and other related measures.
5	Wireline Competition	*Title:* Promoting Fair and Open Competitive Bidding in the E-Rate Program (WC Docket 21–455); Schools and Libraries Universal Service Support Mechanism (CC Docket 02–6). *Summary:* The Commission will consider a Report and Order and Order on Reconsideration that would strengthen the integrity of the E-Rate program by establishing a competitive bidding portal and adopt several proposals aimed at streamlining and simplifying E-Rate program procedures. The portal would be used by applicants and service providers during the procurement process beginning in funding year 2028.
6	Media	*Title:* Amending the Audible Crawl Rule (MB Docket No. 12–107). *Summary:* The Commission will consider a Third Further Notice of Proposed Rulemaking to amend the Audible Crawl Rule and eliminate a technically unworkable provision while ensuring that people who are visually impaired continue receiving the critical emergency information they need.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairman may hold a news conference

in which he will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Authority: This meeting is held, in accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–08267 Filed 4–24–26; 4:15 pm]

BILLING CODE 6712–01–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 May 28, 2026.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *AtlasClear Holdings, Inc., Tampa, Florida;* to become a bank holding company by acquiring Commercial Bancorp, and thereby indirectly acquiring Farmers State Bank, both of Pine Bluffs, Wyoming.

2. *Bci Group, S.A., Santiago, Chile;* to become a bank holding company by acquiring Banco de Crédito e Inversiones S.A. (Bci), Santiago, Chile. *Empresas Juan Yarur SpA, Santiago, Chile;* to acquire Bci Group, S.A., Santiago, Chile. *Bci2, Santiago, Chile;* to become a bank holding company through a spin off of Bci Financial Group, Inc., Miami, Florida, followed by a merger of Bci2 into Bci Group S.A., Santiago, Chile.

Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,

Secretary of the Board.

[FR Doc. 2026–08247 Filed 4–27–26; 8:45 am]

BILLING CODE 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 May 13, 2026.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The Blake Schultz Irrevocable GST Trust, Sarah Schultz Freilinger, as trustee, The Sarah Schultz Freilinger Irrevocable GST Trust, Sarah Schultz Freilinger, as trustee, and the Stephanie Schultz Steele Irrevocable GST Trust, Stephanie Schultz Steele, as trustee, all of Luana, Iowa;* to join the Schultz Family Control Group, a group acting in concert, to acquire voting shares of Luana Bancorporation, and thereby indirectly acquire voting shares of Luana Savings Bank, both of Luana, Iowa.

Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,

Secretary of the Board.

[FR Doc. 2026–08246 Filed 4–27–26; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

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 question whether the proposal complies with the standards of section 4 of the BHC 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.

Unless otherwise noted, comments regarding the 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 May 13, 2026.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Merchants Bancorp, Carmel, Indiana;* to acquire Loan Exchange, LLC, Orange, California, and thereby engage in extending credit pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,

Secretary of the Board.

[FR Doc. 2026–08248 Filed 4–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment for Collaborative Healthcare Patient Safety Organization

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, such as when a PSO chooses to voluntarily relinquish its status as a PSO for any reason or when a PSO's listing expires. AHRQ accepted a notification of proposed voluntary relinquishment from the Collaborative Healthcare Patient Safety Organization, PSO number P0002, of its status as a PSO and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on March 23, 2026.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *https://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008 (73 FR 70732–70814), establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety work product.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of PSOs.

AHRQ has accepted a notification of proposed voluntary relinquishment from the Collaborative Healthcare Patient Safety Organization to voluntarily relinquish its status as a PSO. Accordingly, the Collaborative Healthcare Patient Safety Organization, P0002, was delisted effective at 12:00 Midnight ET (2400) on March 23, 2026.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Roger D. Klein,

Director.

[FR Doc. 2026–08173 Filed 4–27–26; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–26–0179; Docket No. CDC–2026–0694]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Focus on Advancing Support and Transition with the Fragile X Online Registry With Accessible Database (FAST FORWARD). This surveillance project will allow CDC to better understand health outcomes, educational and social outcomes and gaps in related services (education, work, well-being, etc.), and barriers to and differences in receipt of healthcare and other services among people with fragile X syndrome (FXS).

DATES: CDC must receive written comments on or before June 29, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2026–0694 by either of the following methods:

□ *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

□ *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Focus on Advancing Support and Transition with the Fragile X Online Registry with Accessible Research Database (FAST FORWARD)—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Fragile X Syndrome (FXS) is a genetic disorder caused by changes in a gene called fragile x messenger ribonucleoprotein 1 (FMR1). FMR1 usually makes a protein called Fragile X Messenger Ribonucleoprotein (FMRP) that is needed for brain development. People with FXS make little or no FMRP. FXS is the most prevalent known cause of inherited intellectual disability and the most common monogenic cause of autism. Physical features of FXS include a narrow face with prominent jaw and forehead and large ears. Medical features can include dental crowning, otitis media, sinus infections, sleep disorder, and strabismus; developmental features can include intellectual disability, motor delays, poor eye contact, repetitive behaviors, seizure disorder, speech-language disorder, and symptoms of attention deficit hyperactivity disorder. FXS is typically diagnosed in early childhood when physical, medical, and developmental features are more recognized. It is estimated that one in 7,000 males and one in 11,000 females have FXS.

The proposed data collection builds on and improves upon four previous CDC-funded data collection efforts focused on FXS. The first project (CDC–RFA–DD–07–003; 2008–2011) piloted an infrastructure to conduct data collection on people with FXS across multiple sites. The second project (CDC–RFA–DD–11–007; 2011–2015) developed and piloted the infrastructure for a registry and for longitudinal data collection. The third project (CDC–RFA–DD–15–003; 2015–2020), which established the Fragile X Online Registry With Accessible Research Database (FORWARD), and the fourth project (CDC–RFA–DD–21–002; 2021–2026), which extended FORWARD to include Multiple Assessments for Research Characterization (FORWARD–MARCH) built on the foundation of the first two projects and continued data collection to conduct analyses to better characterize the natural history of FXS and meaningful outcome measures to improve the lives of people with FXS.

Congressional language accompanying the 2026 Consolidated Appropriations Act funding for CDC's FXS activities encourages CDC to support additional strategies to promote earlier identification of children with FXS, to ensure populations with FXS conditions are being properly diagnosed and are made aware of available medical services, and support people with FXS and associated conditions and disorders across the lifespan.

The current information collection request, consistent with Congressional intent, is to employ clinic-based enrollment of eligible participants aged 40 years old or younger with full mutation of FXS that attend the three U.S. clinics funded for this project. Each participating clinic will recruit a minimum of 200 eligible persons with

FXS (approximately 40 per year for a total of 600 across all three sites. Information will be collected on diagnosis, co-occurring conditions and behaviors, communication, adaptive abilities, healthcare utilization and service needs, education, transition planning and experience, activities and social participation, future planning, caregiver supports, demographics, participant strengths, and other topics consistent with the goals of the project. Data will be collected through online caregiver surveys.

CDC requests OMB approval for an estimated 600 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Parents/Caregivers	Survey	600	1	1	600
Total					600

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–08239 Filed 4–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–0170]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''X-Ray Classification Collection for Metal and Nonmetal Miners'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 16, 2025, to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

X-Ray Classification Collection for Metal and Nonmetal Miners—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) announces its initiative to collect de-identified data from medical providers obtaining classifications of chest radiographs of miners working in the metal/non-metal (MNM) mining sector. This effort aims to support public health surveillance by aggregating radiographic classifications for miners' chest x-rays by state and commodity. This data collection aligns with the recent Mine Safety and Health Administration (MSHA) regulatory action outlined in the final rule for Respirable Crystalline Silica (30 CFR part 60). The MSHA final rule, Respirable Crystalline Silica (30 CFR part 60), mandates MNM mine operators to ensure medical examination results, including chest x-ray classifications, are provided to NIOSH by the physician or other licensed health care provider or specialist engaged by the mine operator to provide services within 30 days of the medical examination once NIOSH establishes a reporting system. To comply with this requirement, NIOSH has developed a data collection system leveraging Research Electronic Data Capture (REDCap), a secure, web-based platform commonly used in clinical research to ensure data integrity and confidentiality.

The burden hours are estimated based on limited pilot testing conducted internally using the survey instrument. In these pilot tests, the amount of time for instruction review, collection of mock information, and the survey completion was between 2–4 minutes. The median time of three minutes was used to estimate annual burden hours. Currently, the total number of clinics which will be using this system in the United States is unknown. However, the total number of employed miners in the metal/non-metal industry is known, with 255,702 employed in 2023. MSHA estimated in their regulatory documents that anywhere between 25% to 75% of metal/non-metal miners will participate in this program, leading to an annual average number of radiographs submitted to be 13,500. If we take the

total number of clinics to be at least double the number of clinics offering NIOSH-approved radiography listed on NIOSH's website (169), then at least 338 clinics will participate. CDC therefore requests OMB approval for an estimated 457 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Clinics and staff	Request to Access X-ray Classification Submission	338	1	1/60
Clinics and staff	X-ray classification submission for metal and non-metal miners.	338	40	2/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–08240 Filed 4–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–1396]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''School-Based Active Surveillance (SBAS) of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome Among Schoolchildren'' to the Office of Management and budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 11, 2026 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

School-Based Active Surveillance (SBAS) of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS) Among Schoolchildren (OMB Control No. 0920–1396, Exp. 4/30/2026)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS), a complex, chronic, debilitating multi-system disease, affects up to 3.3 million persons in the United States. However, about 90% of people with ME/CFS have not received an official diagnosis from a healthcare professional. ME/CFS affects between 0.10% and 0.75% children and adolescents, which often goes undiagnosed by healthcare professionals.

Data on chronic conditions among schoolchildren, such as asthma, has been collected over the years, but there has been little to no emphasis on ME/CFS in the United States. Chronic conditions among school-aged children likely account for a high proportion of chronic school absenteeism and school withdrawal. Conducting active surveillance among students using school nurses could expedite the diagnosis and management of children who present with symptoms commonly seen in ME/CFS. This involves educating school nurses about ME/CFS and its related syndromes, how to best approach parents and guardians when suggesting the diagnosis, and how to support the educational success of students with chronic diseases. National active surveillance in schools for ME/CFS coupled with education of school nurses about ME/CFS could help improve measuring the burden of ME/CFS in children and provide insights for future plans to improve healthcare in children suffering from ME/CFS and other chronic health conditions.

In the next phase of this project, we will expand the active surveillance project beyond the pilot schools to include additional schools in the pilot states as well as in other states. In this national rollout, school nurses will continue to receive education on data collection and ME/CFs as well as technical assistance and training on using the electronic data collection reporting platform. The SBAS project will extend the currently approved collection to involve more school nurses (respondents). This effort will help us to track ME/CFS symptom burden in addition to the ME/CFS prevalence.

CDC requests OMB approval for a three-year Revision with an estimated

annual burden of 951 hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Frontline School Nurses	Electronic Platform Quarterly Chronic Absenteeism Data Reporting Form.	20	4	9
Frontline School Nurses	Demographic Data Collection Points	20	1	6
Frontline School Nurses	Site Baseline Survey	20	1	20/60
Frontline School Nurses	Question Guide for Face-to-Face Evaluation Interviews	20	3	1.5
State Data Coordinators	Webinar 1 Feedback Form	50	1	18/60
School District Representative	School District Feedback Form	8	1	18/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–08238 Filed 4–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–1283]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Monitoring and Reporting for the Overdose Data to Action Cooperative Agreements'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' Notice on December 15, 2025 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Monitoring and Reporting for the Overdose Data to Action Cooperative Agreements (OMB Control Number 0920–1283, Exp. 5/31/2026)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a Revision request for the currently approved Monitoring and Reporting for the Overdose Data to Action Cooperative Agreement (OMB Control Number 0920–1283). In 2024, 79,384 drug overdose deaths occurred in the United States; the age-adjusted rate in 2024 was 23.1 deaths per 100,000 population, reflecting a 26.2% decrease in the age-adjusted drug overdose death rate from 2023, during which there were 31.3 deaths per 100,000 population. Approximately 68% of drug overdose deaths in 2024 involved an opioid. In addition, opioids are nested in a broadening polysubstance crisis, largely driven by deaths co-involving opioids and stimulants, such as cocaine and methamphetamine. During 2024, there were 21,945 drug overdose deaths involving cocaine and there were 28,722 drug overdose deaths involving psychostimulants with abuse potential—such as methamphetamine—accounting for approximately 28% and 36%, respectively, of drug overdose deaths overall.

This Revision requests the continued collection of information from jurisdictions (which include States, Washington, DC, U.S. Territories, cities, and counties) and partners funded under the Overdose Data to Action Limiting Overdose through Collaborative Actions in States and Localities. All jurisdictions funded by the OD2A NOFOs will report activity progress and capacity and workplan updates using web-based tools. Information collected will provide crucial data for program performance monitoring, budget tracking, and where applicable, program success. The information will also improve communication between CDC and funding recipients as well as inform technical assistance and guidance documents.

Revisions requested are to remove previously approved data collection instruments that are no longer active for ongoing data collection purposes and revise currently approved burden. The

total estimated annualized burden hours decreased from 1,167 to 1,080. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
OD2A–S-funded state and District of Columbia health departments.	OD2A–S Annual Performance Report and Work Plan.	50	1	12
OD2A–LOCAL-funded territory, county, and city health departments.	OD2A–LOCAL Annual Performance Report and Work Plan.	40	1	12

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2453–NC]

RIN 0938–ZB99

Medicaid Program; 2028 Medicaid Home and Community-Based Services Quality Measure Set

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Home and Community-Based Services (HCBS) Quality Measure Set is a set of nationally standardized quality measures for Medicaid-funded HCBS that is intended to promote more common and consistent use within and across States of nationally standardized quality measures in HCBS programs, create opportunities for CMS and States to have comparative quality data on HCBS programs, and drive improvement in quality of care and outcomes for people receiving HCBS. The purpose of this notice with comment period is to solicit public comment on the 2028 HCBS Quality Measure Set. Specifically, it is intended to solicit public comment on: proposed mandatory and voluntary measures for the 2028 HCBS Quality Measure Set; how States collect, calculate, and report data on the measures in the proposed 2028 HCBS Quality Measure Set; the proposed measures in the 2028 HCBS Quality Measure Set for which States are required to report stratified data, including rural/urban status; the proposed stratification factors for each of the measures in the 2028 HCBS Quality Measure Set for which States are required to report stratified data; the populations for which States are proposed to report the measures in the 2028 HCBS Quality Measure Set; and the proposed reporting schedule.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by May 28, 2026.

ADDRESSES: In commenting, please refer to file code CMS–2453–NC.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov/docket/CMS-2026-0332*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2453–NC, P.O. Box 8016, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2453–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Jennifer Bowdoin, (410) 786–8551.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. We will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. We continue to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

A. Medicaid Home and Community-Based Services (HCBS)

Home and community-based services (HCBS) provide opportunities for Medicaid beneficiaries to receive services in their own homes and communities rather than in institutions. Medicaid coverage of HCBS varies by State and can include a combination of medical and non-medical services, such as case management, homemaker, personal care, adult day health, habilitation (both day and residential), and respite care services. HCBS programs serve a variety of targeted population groups, including older adults and children or adults with intellectual and developmental disabilities (IDD), physical disabilities, mental health/substance use disorders, and complex medical needs. In fiscal year (FY) 2023, 8.4 million Medicaid beneficiaries received HCBS, and HCBS accounted for $145.9 billion in Medicaid expenditures.[1]

[1] Carpenter, Alexandra, Cara Stepanczuk, Caitlin Murray, and Andrea Wysocki. ''Trends in Users and Expenditures for Home and Community-Based Services as a Share of Total Medicaid Long-Term Services and Supports Users and Expenditures, 2023.'' Mathematica, October 17, 2025. Accessed at *https://www.medicaid.gov/medicaid/long-term-*

Continued

B. HCBS Quality Measure Set

In July 2022, we issued State Medicaid Director Letter # 22–003 [2] to release the first official version of the HCBS Quality Measure Set. In April 2024, we issued two Center for Medicaid and CHIP Services (CMCS) Informational Bulletins: (1) an informational bulletin [3] to update the HCBS Quality Measure Set, hereinafter referred to as the 2024 HCBS Quality Measure Set; and (2) an informational bulletin [4] that establishes and describes HCBS Quality Measure Set reporting requirements for the 41 States and territories participating in the Money Follows the Person (MFP) demonstration.[5] Specifically, beginning in fall 2026 and every other year thereafter, MFP grant recipients are required to report on the HCBS Quality Measure Set for all Medicaid-funded HCBS under sections 1915(c), (i), (j), and (k) of the Social Security Act (the Act), as well as section 1115 demonstrations that include HCBS. Reporting must include all eligible individuals (or a representative sample of eligible individuals) receiving HCBS under these authorities; reporting on the HCBS Quality Measure Set is not limited to MFP program participants receiving HCBS under those authorities. MFP grant recipients are expected to report in the aggregate across all of their HCBS programs and are not expected to report separately for each HCBS program. For the initial reporting period in 2026, MFP grant recipients are expected to report on the subset of measures in the 2024 HCBS Quality Measure Set identified as mandatory measures. These include up to 20 measures derived from four experience of care surveys,[6] two assessment/case management system measures (Long Term Services and Supports (LTSS)–1 and LTSS–2), and three rebalancing measures that use administrative (that is, claims and encounter) data (LTSS–6, LTSS–7, and LTSS–8). Grant recipients also have the option for CMS to report on the administrative data measures (LTSS–6, LTSS–7, and LTSS–8) on their behalf using data from the Transformed Medicaid Statistical Information System (T–MSIS) Analytic Files. Additional information on each of these measures is provided in Table 4 in section II.A. of this notice with comment period.

In the May 10, 2024 **Federal Register**, we issued a final rule titled, ''Ensuring Access to Medicaid Services'' (89 FR 40542) (hereinafter referred to as the Access rule), that included reporting requirements for States for section 1915(c) waiver programs, codified at 42 CFR 441.311, and made applicable to HCBS furnished under sections 1915(i), (j), and (k) of the Act through cross-references at 42 CFR 441.474(c), 441.745(a)(1)(vii), and 441.580(i). Section 441.311(c) requires that States report every other year, beginning July 9, 2028, on the HCBS Quality Measure Set. Specifically, we required at § 441.311(c)(1)(i) that States report every other year, according to the format and schedule prescribed by the Secretary through the process for developing and updating the HCBS Quality Measure Set finalized at § 441.312(d), on measures identified in the HCBS Quality Measure Set as mandatory for States to report. At § 441.311(c)(1)(ii), we finalized our policy that States may report on measures in the HCBS Quality Measure Set that are not identified as mandatory or as measures the Secretary will report on behalf of States. At § 441.311(c)(1)(iii), we required States to establish performance targets, subject to our review and approval, for each of the measures in the HCBS Quality Measure Set that are identified as mandatory for States to report or are identified as measures for which we will report on behalf of States, as well as to describe the quality improvement strategies that they will pursue to achieve the performance targets for those measures. At § 441.311(c)(1)(iv), we finalized the policy that States may establish State performance targets for other measures in the HCBS Quality Measure Set that are not identified as mandatory for States to report or as measures for which the Secretary will report on behalf of States as well as to describe the quality improvement strategies that they will pursue to achieve the performance targets. At § 441.311(c)(2), we established that we will report on behalf of the States, on a subset of measures in the HCBS Quality Measure Set identified in § 441.312(d)(1)(iii). Further, at § 441.311(c)(3), we finalized the policy that States may, but are not required to report on measures that are not yet required but will be, and on populations for whom reporting is not yet required but will be phased in in the future. States must comply with the HCBS Quality Measure Set reporting requirements at § 441.311(c) beginning July 9, 2028.

Regulations at § 441.312 set requirements for developing the HCBS Quality Measure Set. Specifically, at § 441.312(c)(1), we required that the Secretary identify, and update no more frequently than every other year, beginning no later than December 31, 2026, the quality measures to be included in the HCBS Quality Measure Set. At § 441.312(c)(2), we required that the Secretary make technical updates and corrections to the HCBS Quality Measure Set annually as appropriate. At § 441.312(c)(3), we required that the Secretary consult at least every other year with States and other interested parties (who are described in more detail at § 441.312(g)) to:

- Establish priorities for the development and advancement of the HCBS Quality Measure Set;
- Identify newly developed or other measures that should be added to the HCBS Quality Measure Set, including to address gaps in the measures included in the HCBS Quality Measure Set;

services-supports/downloads/ltss-rebalancing-brief-2023.pdf.

[2] CMS State Medicaid Director Letter. SMD# 22–003 Home and Community-Based Services Quality Measure Set. July 2022. Accessed at *https://www.medicaid.gov/federal-policy-guidance/downloads/smd22003.pdf.*

[3] CMCS Informational Bulletin, ''2024 Home and Community-Based Services (HCBS) Quality Measure Set (QMS).'' Published April 11, 2024. Accessed at *https://www.medicaid.gov/federal-policy-guidance/downloads/cib041124.pdf.*

[4] CMCS Informational Bulletin, ''Home and Community-Based Services (HCBS) Quality Measure Set (QMS) Reporting Requirements for Money Follows the Person (MFP) Demonstration Grant Recipients.'' Published April 11, 2024. Accessed at *https://www.medicaid.gov/federal-policy-guidance/downloads/cib04112024.pdf.*

[5] MFP is a grant-funded demonstration program that was initially authorized by the Deficit Reduction Act of 2005 (Pub. L. 109–171). For more information on the MFP demonstration program, see *https://www.medicaid.gov/medicaid/long-term-services-supports/money-follows-person.*

[6] MFP grant recipients are not necessarily expected to conduct all four of the experience of care surveys, but they are expected to survey all of the major population groups included in their State's HCBS programs, if a survey included in the HCBS Quality Measure Set is available for that population. Some experience of care surveys have not been tested with all populations enrolled in HCBS programs. Depending on the populations served by the State's HCBS programs and the particular survey instrument(s) that a State selects to use, MFP grant recipients may need to use multiple experience of care surveys to ensure that all major population groups are included. MFP grant recipients are only expected to use as many surveys as are necessary to assess the experience of care for the major population groups included in the State's HCBS programs. As a result, the number of experience of care surveys that a State must conduct and the number of corresponding measures it must report may vary. For instance, if a State conducts the HCBS Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey for all of its HCBS populations for which a survey is available in the 2024 HCBS Quality Measure Set, it would need to report on five experience of care survey measures, in addition to the two assessment/case management system measures and the three administrative measures. As another example, if a State conducts National Core Indicators-Aging and Disabilities (NCI–AD) and National Core Indicators Intellectual and Development Disabilities (NCI–IDD), it would need to report on five measures from each of those surveys (10 experience of care survey measures in total), in addition to the two assessment/case management system measures and the three administrative measures.

• Identify measures that should be removed as they no longer strengthen the HCBS Quality Measure Set; and

• Ensure that all measures included in the HCBS Quality Measure Set reflect an evidenced-based process including testing, validation, and consensus among interested parties; are meaningful for States; and are feasible for State-level, program-level, or provider-level reporting as appropriate.

At § 441.312(c)(4), we required that the Secretary develop and update in consultation with States, no more frequently than every other year, the HCBS Quality Measure Set using a process that allows for public input and comment. The process for allowing public input and comment was finalized at § 441.312(d) and requires the Secretary to address the following:

• Identify all measures in the HCBS Quality Measure Set, including newly added measures, measures that have been removed, mandatory measures, measures that the Secretary will report on States' behalf, measures that States can elect to have the Secretary report on their behalf, and measures for which the Secretary will provide States with additional time to report and the amount of additional time provided;

• Provide technical information to States on how to collect and calculate data on the measures in the HCBS Quality Measure Set;

• Provide a standardized format and reporting schedule for reporting on the measures in the HCBS Quality Measure Set;

• Provide procedures that States must follow in reporting the required HCBS Quality Measure Set measure data;

• Identify specific populations for which States must report the measures in the HCBS Quality Measure Set, including people enrolled in a specific delivery system type such as a managed care plan or fee-for-service, people who are dually eligible for Medicare and Medicaid, older adults, people with physical disabilities, people with IDD, people who have serious mental illness, and people who have other health conditions; and provide technical information on attribution rules for determining how States must report on measures for beneficiaries who are included in more than one population;

• Identify the measures in the HCBS Quality Measure Set that must be stratified by race, ethnicity, sex, age, rural/urban status, disability, language, or such other factors; and

• Describe how to establish State performance targets for each of the measures in the HCBS Quality Measure Set.

At § 441.312(e), we established that, as part of the process for developing and updating the HCBS Quality Measure Set, the Secretary may provide that mandatory State reporting for certain measures and reporting for certain populations will be phased in over a specified period of time, taking into account the level of complexity required for such State reporting. At § 441.312(f), we established a phase-in schedule for stratified reporting that requires States to provide stratified data for 25 percent of the measures in the HCBS Quality Measure Set by July 9, 2028, 50 percent by July 9, 2030, and 100 percent by July 9, 2032. We also established that, in specifying the measures and the factors by which States must report stratified measures, the Secretary will consider whether such stratified sampling can be accomplished based on valid statistical methods, without risking violating beneficiary privacy, and, for measures obtained from surveys, whether the original survey instrument collects the variables or factors necessary to stratify the measures, and such other factors as the Secretary determines appropriate.

C. Development of the Proposed 2028 HCBS Quality Measure Set

To develop the proposed HCBS Quality Measure Set for the first year of public reporting required by § 441.311 in 2028 (hereinafter referred to as the 2028 HCBS Quality Measure Set), a public call for measures was released in July 2024 to solicit public input on measures to include in the 2028 HCBS Quality Measure Set. The public call for measures allowed any member of the public to suggest measures for addition to or removal from the HCBS Quality Measure Set, using the 2024 HCBS Quality Measure Set [7] as the basis for developing the 2028 HCBS Quality Measure Set. Twenty-four measures were suggested for addition to the HCBS Quality Measure Set through the public call for measures (Table 1), while 15 measures were suggested for removal (Table 2).[8]

TABLE 1—MEASURES SUGGESTED FOR ADDITION TO THE HCBS QUALITY MEASURE SET THROUGH THE PUBLIC CALL FOR MEASURES

Measures suggested for addition
Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Health Plan Survey, Adult Version, Measures:
CAHPS Health Plan Survey, Adult Version: Enrollees' Rating of Health Plan.
National Core Indicators-Aging and Disabilities (NCI–AD™) Measures:
NCI–AD: Percentage of People Who Can Get an Appointment to See or Talk to Their Primary Care Doctor When They Need to.
NCI–AD: Percentage of People in Group Settings Who Always Have Access to Food.
NCI–AD: Percentage of People in Group Settings Who Are Able to Choose Their Roommate.
NCI–AD: Percentage of People in Group Settings Who Are Able to Furnish and Decorate Their Room However They Want to.
NCI–AD: Percentage of People in Group Settings Who Are Able to Lock the Door to Their Room.
NCI–AD: Percentage of People Who Have Access to Mental Health Services If They Want Them.
NCI–AD: Percentage of People Who Have Needed Assistive Equipment and Devices.
NCI–AD: Percentage of People Who Know Whom to Contact If They Have a Complaint About Their Services.
National Core Indicators® Intellectual and Developmental Disabilities (NCI®-IDD) Measures:
NCI–IDD: The Percentage of People Who Report That There Are Rules About Having Friends or Visitors at Home.
NCI–IDD: The Percentage of People Reported To Be Using a Self-Directed Supports Option.
NCI–IDD: The Percentage of People Who Report Staff Do Things the Way They Want Them Done.
NCI–IDD: The Percentage of People Who Report That They Know Whom to Talk to If They Want to Change Services.
Rehabilitation Research and Training Center on HCBS Outcome Measurement (RTC/OM) Measures:
RTC/OM: Experiences Seeking Employment.
RTC/OM: Experiences Using Transportation.
RTC/OM: Job Experiences.

[7] For a full list of measures in the 2024 HCBS Quality Measure Set, see Appendix A of the CMCS Informational Bulletin, ''2024 Home and Community-Based Services (HCBS) Quality Measure Set (QMS).'' Published April 11, 2024. Accessed at *https://www.medicaid.gov/federal-policy-guidance/downloads/cib041124.pdf.*

[8] For more information on each measure suggested for addition or removal, see *https://www.mathematica.org/-/media/internet/features/2025/hcbs-quality-measure-set/qmsreview-mis.pdf.*

TABLE 1—MEASURES SUGGESTED FOR ADDITION TO THE HCBS QUALITY MEASURE SET THROUGH THE PUBLIC CALL FOR MEASURES—Continued

Measures suggested for addition
RTC/OM: Meaningful Activity.
RTC/OM: Personal Choices and Goals—Self-Determination Index.
RTC/OM: Services and Supports—Self-Determination Index.
RTC/OM: Social Connectedness.
RTC/OM: System Supports Meaningful Consumer Involvement.
RTC/OM: Feelings of Safety Around Others.
RTC/OM: Freedom from Experiences of Abuse and Neglect.

TABLE 2—MEASURES SUGGESTED FOR REMOVAL FROM THE HCBS QUALITY MEASURE SET THROUGH THE PUBLIC CALL FOR MEASURES

Measures suggested for removal
Home and Community-Based Services (HCBS) Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Measures:
HCBS CAHPS: Staff Listen and Communicate Well.
HCBS CAHPS: Transportation to Medical Appointments Composite Measure.
Long-Term Services and Supports (LTSS) Measures:
LTSS–1: Comprehensive Assessment and Update.
LTSS–2: Comprehensive Person-Centered Plan and Update.
LTSS–3: Shared Person-Centered Plan with Primary Care Provider.
LTSS–7: Minimizing Facility Length of Stay.
Healthcare Effectiveness Data and Information Set (HEDIS)[9] *Measures:*
Plan All-Cause Readmission.[10]
National Core Indicators-Aging and Disabilities (NCI–AD™) Measures:
NCI–AD: Percentage of Non-English Speaking Participants Who Receive Information About Their Services in the Language They Prefer.
NCI–AD: Percentage of People Who Are Able to See or Talk to Their Friends and Family When They Want To.
NCI–AD: Percentage of People Who Had Adequate Follow-Up After Being Discharged from a Hospital or Rehabilitation/Nursing Facility.
NCI–AD: Percentage of People with Concerns About Falling Who Had Someone Work with Them to Reduce Risk of Falls.
NCI–AD: Percentage of People Who Know How to Manage Their Chronic Conditions.
NCI–AD: Percentage of People Who Are Ever Worried for the Security of Their Personal Belongings.
NCI–AD: Percentage of People Who Feel Safe Around Their Support Staff.
NCI–AD: Percentage of People Whose Money Was Taken or Used Without Their Permission in the Last 12 Months.

An independent HCBS Quality Measure Set Review Workgroup [11] comprising representatives from State agencies, managed care plans, beneficiary advocates, providers and provider associations, researchers, measure developers, and other subject matter experts was established in fall 2024. The purpose of the workgroup was to review and identify gap areas in the HCBS Quality Measure Set and recommend changes for improvement. In particular, the workgroup reviewed each of the measures suggested for addition or removal through the public call for measures and, in spring 2025, voted on the recommendations. The measures recommended by the workgroup for addition to or removal from the HCBS Quality Measure Set are provided in Table 3.[12]

TABLE 3—MEASURES RECOMMENDED BY THE HCBS QUALITY MEASURE SET REVIEW WORKGROUP FOR ADDITION TO OR REMOVAL FROM THE HCBS QUALITY MEASURE SET

Measures Recommended for Addition
National Core Indicators-Aging and Disabilities (NCI–AD™) Measures:
NCI–AD: Percentage of People Who Have Access to Mental Health Services If They Want Them.
NCI–AD: Percentage of People Who Have Needed Assistive Equipment and Devices.
NCI–AD: Percentage of People Who Know Whom to Contact If They Have A Complaint About Their Services.
National Core Indicators® Intellectual and Developmental Disabilities (NCI®-IDD) Measures:
NCI–IDD: Percentage of People who Report that They Know Whom to Talk to If They Want to Change Services.
Measures Recommended for Removal
Long-Term Services and Supports (LTSS) Measures:
LTSS–1: Comprehensive Assessment and Update.

[9] HEDIS is a set of performance measures developed by the National Committee for Quality Assurance (NCQA). For more information on HEDIS, see *https://www.ncqa.org/hedis/.*

[10] In the summary of measures suggested for removal (available at *https://www.mathematica.org/-/media/internet/features/2025/hcbs-quality-measure-set/qmsreview-mis.pdf.*), the Plan All-Cause Readmission Measure is referred to as ''Managed Long-Term Services and Supports (MLTSS): Plan All-Cause Readmission.'' We refer to the measure here as a HEDIS measure to align with standard terminology used by States, managed care plans, and other entities involved in health care quality measurement and reporting.

[11] For more information on the HCBS Quality Measure Set Review Workgroup, see *https://www.mathematica.org/features/hcbsqmsreview.*

[12] For more information on the workgroup's recommendations, see *https://www.mathematica.org/-/media/internet/features/2026/hcbs-quality-measure-set/2028hcbsqmsreview-final-report.pdf.*

TABLE 3—MEASURES RECOMMENDED BY THE HCBS QUALITY MEASURE SET REVIEW WORKGROUP FOR ADDITION TO OR REMOVAL FROM THE HCBS QUALITY MEASURE SET—Continued

LTSS–2: Comprehensive Person-Centered Plan and Update.
LTSS–3: Shared Person-Centered Plan with Primary Care Provider.

The proposed 2028 HCBS Quality Measure Set considers the recommendations of the HCBS Quality Measure Set Review Workgroup,[13] existing reporting requirements for the 41 States and territories participating in the MFP demonstration, and our responses to comments in the Access rule. Our intent in issuing this notice with comment period is to satisfy, in part, the requirements established at § 441.312(c)(4) that the Secretary, in consultation with States, develop and update, no more frequently than every other year, the HCBS Quality Measure Set using a process that allows for public input and comment. Specifically, the intent of this notice with comment period is to solicit public comment on: proposed mandatory and voluntary measures for the 2028 HCBS Quality Measure Set; how States collect, calculate, and report data on the measures in the proposed 2028 HCBS Quality Measure Set; the proposed measures in the 2028 HCBS Quality Measure Set for which States are required to report stratified data; the proposed stratification factors for each of the measures in the 2028 HCBS Quality Measure Set for which States are required to report stratified data; the populations for which States are proposed to report measures in the 2028 HCBS Quality Measure Set and the proposed attribution rules for reporting on beneficiaries who meet criteria for more than one HCBS population; and the proposed reporting schedule. We will solicit public comment on the reporting format and how States establish State performance targets for the 2028 HCBS Quality Measure Set through the Paperwork Reduction Act notice and comment process (see section III. of this notice with comment period).

[13] Although we do not generally discuss in detail the feedback obtained through the public call for measures in this notice with comment period, our consideration of the recommendations of the workgroup is intended to also consider the feedback obtained through the public call for measures.

II. Provisions of the Notice With Comment Period

A. Proposed Mandatory Measures in the 2028 HCBS Quality Measure Set

As discussed earlier in sections I.A. and I.C. of this notice with comment period, we used the 2024 HCBS Quality Measure Set as the basis for the 2028 HCBS Quality Measure Set. We also considered the recommendations of the HCBS Quality Measure Set Review Workgroup, existing reporting requirements for the 41 States and territories participating in the MFP demonstration, and our responses to comments in the Access rule. Based on these considerations, we are soliciting comment on a proposed approach for the 2028 HCBS Quality Measure Set that is discussed in more detail later in this section and generally aligns with the mandatory measures required for MFP grant recipients to report on in 2026, with proposed modifications to reduce the number of participant-reported experience of care survey measures. We are also soliciting comment on whether we should instead require the same set of mandatory measures in the 2028 HCBS Quality Measure Set as is required for MFP grant recipients to report on in 2026.

In particular, we indicated in the Access rule that we intend to retain each of the measures in the HCBS Quality Measure Set for at least 5 years to ensure the availability of longitudinal data, unless there are serious issues associated with the measures (such as related to measure reliability or validity) or States' use of the measures (such as excessive cost of State data collection and reporting or insurmountable technical issues with State reporting on the measures) (89 FR 40665). Consistent with this intent, we generally sought to align the proposed mandatory measures for 2028 with those required for MFP grant recipients to report on in 2026, in order to promote alignment, parsimony, and harmonization of HCBS quality measures, and to be responsive to the feedback received through the Access rule notice and comment process and extensive engagement with States, State associations, and other interested parties. At the same time, we recognize the importance of balancing these goals with considerations related to reporting burden, feasibility, and the overall composition of the measure set. As such, we are proposing a modified set of mandatory measures for 2028 that generally aligns with the measures required for MFP reporting in 2026, while reducing the number of participant-reported experience of care survey measures. Specifically, we are proposing to require States to report in 2028 on the same set of mandatory measures as is required for MFP grant recipients to report on in 2026, with the exception of two experience of care survey measures, which we are not proposing as mandatory measures in 2028. The two measures that are mandatory for MFP grant recipients to report on in 2026 that we are not proposing as mandatory in 2028 are: HCBS CAHPS: Planning Your Time and Activities composite measure (which we referred to in the 2024 HCBS Quality Measure Set as HCBS CAHPS: Community Inclusion and Empowerment composite measure but is referred to here using the measure name in the most recent technical specifications for the HCBS CAHPS measures [14]); and Personal Outcome Measures® (POM: People Live in Integrated Environments.

The Planning Your Time and Activities composite measure is calculated using scores on six items in the HCBS CAHPS survey: [15]

- *Question 75:* In the last 3 months, when you wanted to, how often could you get together with these family members who live nearby? Response options: Never; Sometimes; Usually; Always.
- *Question 77:* In the last 3 months, when you wanted to, how often could you get together with these friends who live nearby? Response options: Never; Sometimes; Usually; Always.
- *Question 78:* In the last 3 months, when you wanted to, how often could you do things in the community that

[14] Available at *https://www.medicaid.gov/medicaid/quality-of-care/quality-of-care-performance-measurement/cahps-home-and-community-based-services-survey.*

[15] For more information on calculating the results on composite measures for the HCBS CAHPS survey, see Appendix C at *https://www.ahrq.gov/sites/default/files/wysiwyg/cahps/cahps-database/2024-hcbs-chartbook.pdf.*

you like? Response options: Never; Sometimes; Usually; Always.

- *Question 79:* In the last 3 months, did you need more help than you get from {personal assistance/behavioral health staff} to do things in your community? Response options: Yes; No.
- *Question 80:* In the last 3 months, did you take part in deciding what you do with your time each day? Response options: Yes; No.
- *Question 81:* In the last 3 months, did you take part in deciding when you do things each day—for example, deciding when you get up, eat, or go to bed? Response options: Yes; No.

The second measure that is mandatory for MFP grant recipients to report on in 2026 but that we are not proposing as mandatory for 2028 is the POM: People Live in Integrated Environments measure, which uses an interview protocol that assesses whether people live in environments where they are integrated into the community.

We continue to believe that the measures identified for MFP reporting are generally feasible for States to report without undue burden and focus on important aspects of quality for people receiving HCBS and for HCBS systems, including person-centered planning and care, community integration, safety, transportation, and LTSS system rebalancing. However, we are not proposing the HCBS CAHPS: Planning Your Time and Activities composite measure as mandatory in 2028 because we have received concerns from interested parties that some of the items included in the composite measure may be more reflective of individuals' social relationships than of their experiences with their HCBS and are outside the control of HCBS programs. We have received similar concerns regarding POM: People Live in Integrated Environments, which may assess factors that are outside the control of HCBS programs, and, as a result, we are also not proposing this measure as mandatory in 2028. We invite comment on whether we should require States to report on HCBS CAHPS: Planning Your Time and Activities or POM: People Live in Integrated Environments in 2028. We also request comment on whether there are additional measures that should be mandatory and whether any of the proposed mandatory measures should instead be voluntary or removed from the 2028 HCBS Quality Measure Set.

Table 4 provides the proposed mandatory measures in the 2028 HCBS Quality Measure Set. For each proposed measure, the table includes the CMS Measure Inventory Tool (CMIT) [16] identification (ID) number, the measure steward, the measure name, the type of data source, the method of reporting to CMS, and brief technical specifications. Table 4 also identifies whether each mandatory measure is proposed for required stratification. Our proposed stratification requirements are discussed in section II.C. of this notice with comment period. The CMIT ID, measure steward, and measure name are provided to clearly identify each proposed measure. Commenters are encouraged to use the CMIT ID and/or the measure name as written in the table when referencing specific measures in comments. The type of data source provides information on the type of data States would need to collect and analyze to report on the measure, as determined by the measure steward. The technical specifications provide information on the numerator and denominator for each measure and are provided for informational purposes only. More detailed information on each measure is available in CMIT or from the measure steward for each measure. The method of reporting to CMS provides information on our proposed method for States to report the results of each proposed measure. We discuss the proposed method of reporting each measure later in this section.

We are soliciting comment on whether to include a total of 23 mandatory measures in the 2028 HCBS Quality Measure Set. The measures include two measures that require data from assessments or case management systems, three measures that require administrative data, and 18 participant-reported measures from experience of care surveys. It is important to note that we are not proposing to require that all States report on all 23 measures. As discussed in more detail later in this section, we are soliciting comments on whether States should be required to report participant-reported experience of care survey measures from one or more of the four experience of care surveys proposed for inclusion in the HCBS Quality Measure Set. Because States serve different HCBS populations and may use one or more of the four proposed experience of care surveys, the total number of measures a State would report would be expected to range from 9 to 19. The measures that each State would be required to report include four to five participant-reported measures from each applicable experience of care survey selected by the State, two assessment/case management system measures, and three administrative data measures. We are also proposing to provide States with the option for CMS to conduct analyses and report on the three administrative data measures on the State's behalf using data from T–MSIS Analytic Files, thereby potentially reducing the number of measures that the State would need to report by three. We discuss these proposals in more detail below in this section.

Consistent with the 2024 HCBS Quality Measure Set, the proposed 2028 HCBS Quality Measure Set relies heavily on measures derived from four surveys that assess the experience of care for one or more population groups included in HCBS programs. The four surveys include HCBS CAHPS, NCI–AD Adult Consumer Survey, NCI–IDD In-Person Survey (IPS), and Personal Outcome Measures® (POM). HCBS CAHPS is a cross-disability survey that has been tested for use with older adults and adults with physical disabilities, IDD, acquired brain injury, and mental health or substance use disorders.[17] The NCI–AD Adult Consumer Survey is a survey of older adults and adults with physical disabilities that includes nearly 100 indicators designed to understand overall performance of public aging and physical disability systems.[18] NCI–IDD IPS is an annual multi-State cross-sectional survey of adult recipients of State developmental disabilities systems' supports and services.[19] POM is an interview-based tool that collects data on 21 indicators to better understand the desired outcomes of adults with IDD, adults with psychiatric disabilities, and older adults.[20]

Based on the 2026 MFP reporting requirements, we are not proposing to require that States conduct all four experience of care surveys to report on the proposed mandatory measures in the 2028 HCBS Quality Measure Set. Rather, we are soliciting comment on whether to require States to conduct one or more of the four experience of care surveys for each of the major population groups (for example, older adults, adults with IDD, adults with physical disabilities, adults with serious mental illness, adults with acquired brain injury) receiving services under the

[16] CMIT is available at *https://cmit.cms.gov/cmit/#/*.

[17] For more information on the HCBS CAHPS survey, see *https://www.medicaid.gov/medicaid/quality-of-care/quality-of-care-performance-measurement/cahps-home-and-community-based-services-survey*.

[18] For more information on the NCI–AD Adult Consumer Survey, see *https://nci-ad.org/about/the-surveys/*.

[19] For more information on NCI–IDD IPS, see *https://idd.nationalcoreindicators.org/in-person-individual/*.

[20] For more information on POM, see *https://www.c-q-l.org/tools/personal-outcome-measures/*.

State's HCBS programs, if a survey is available for use with each relevant population.[21] These population groups are consistent with those referenced in § 441.312(d)(5). Under this proposal, States would be required to use as many surveys as are necessary to assess the experience of care for the major population groups included in the State's HCBS programs. The number of surveys that each State would need to conduct and, in turn, the number of experience of care survey measures that each State would need to report to meet the HCBS Quality Measure Set reporting requirements would vary depending on the populations served in the State's HCBS programs and the survey(s) selected by the State to use. States that opt to conduct the HCBS CAHPS survey, for instance, may be able to report on the mandatory survey measures solely through use of that survey. However, we anticipate, based on the extensive use of NCI–AD and NCI–IDD across States and our understanding of the surveys currently in use by States,[22] that most States would likely need to conduct at least two surveys to report on the mandatory survey measures and that States would generally need to conduct a maximum of three surveys to fully meet the proposed requirements. As a result, we estimate that each State would report a total of 9 to 19 proposed mandatory measures in the 2028 HCBS Quality Measure Set. This includes four to five participant-reported measures from each applicable experience of care survey, two assessment/case management system measures, and three administrative data measures.

We invite comment on our proposal to require that States conduct one or more of the four experience of care surveys for each of the major population groups (for example, older adults, adults with IDD, adults with physical disabilities, adults with serious mental illness, adults with acquired brain injury) receiving services under the State's HCBS programs, if a survey is available for use with each relevant population. We also solicit comment on whether we should exclude any of the surveys from the 2028 HCBS Quality Measure Set.

As we also discuss in section II.D. of this notice with comment period, individuals receiving HCBS under more than one HCBS program or delivery system during the same reporting period could potentially be included in the survey sample for more than one experience of care survey. For instance, if an individual receives HCBS through both fee-for-service and managed care delivery systems during the same reporting period, they may be included in the survey samples for more than one experience of care survey if the surveys are administered separately for the fee-for-service and managed care delivery systems. We encourage States and other entities involved in survey administration to take steps to deduplicate survey samples, but we are not proposing at this time to require States to ensure that survey samples are deduplicated due to the administrative complexity associated with deduplicating samples across potentially multiple experience of care surveys and entities involved in survey administration. We invite comment on whether we should require States to deduplicate survey samples when individuals may be included in the sample for multiple experience of care surveys.

Based on information submitted by MFP grant recipients in their operational protocols describing how they intend to meet HCBS Quality Measure Set reporting requirements in 2026, we believe that few States are currently using or plan to use POM in the future to assess experience of care and that, where it is used, States use or plan to use POM to survey only a small subset of the State's overall HCBS population. Given this understanding, we anticipate proposing the removal of POM from the 2030 HCBS Quality Measure Set. We believe that this approach would allow us to remove survey measures that are not widely in use by States and, as a result, may no longer be meaningful for States or feasible for consistent State-level reporting, while also providing States that use POM with sufficient time to transition to other experience of care surveys. However, to maintain consistency with the requirements for MFP grant recipients in 2026, we are proposing to allow States to use POM measures to meet the HCBS Quality Measure Set reporting requirements in 2028, as interim measures prior to potential removal in 2030. We request comment on our proposal to include POM in the 2028 HCBS Quality Measure Set and our anticipated proposal to remove POM from the 2030 HCBS Quality Measure Set, particularly from States that currently use or plan to use POM.

We note that two measures we are soliciting comment on as mandatory measures (LTSS–1 and LTSS–2) were recommended for removal by the HCBS Quality Measure Set Review Workgroup. We considered these recommendations in selecting the proposed mandatory measures for the 2028 HCBS Quality Measure Set. However, we believe that these recommendations were based, in part, on differing interpretations among some workgroup members that LTSS–1 and LTSS–2, which focus on the quality and comprehensiveness of the person-centered planning process, are considered ''compliance'' measures rather than quality measures. We believe that effective State implementation of the person-centered planning process is integral to ensuring that HCBS systems are responsive to the needs and choices of beneficiaries receiving HCBS, maximize independence and self-direction, and provide support and coordination to facilitate full engagement in community life for people receiving HCBS. Further, we have received feedback from States; the U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG); the HHS Administration for Community Living (ACL); the HHS Office for Civil Rights (OCR); and other interested parties regarding the importance of person-centered planning and the role of the person-centered service plan in assuring the health and welfare of section 1915(c) waiver program participants.[23] As such, the exclusion of measures that focus on the quality and comprehensiveness of the person-centered planning process would result in a critical gap in the HCBS Quality Measure Set, with inadequate representation of measures assessing service coordination and individualized care. Further, we note that the 41 States and territories participating in the MFP demonstration have made system changes, executed contracts, and taken other actions to be able to report on these measures. We believe that removing LTSS–1 and LTSS–2 and replacing them with alternative measures focused on the person-centered planning process would be disruptive to those States. We request comment on our proposal to include LTSS–1 and LTSS–2 as

[21] We note that there is a lack of proposed measures in the HCBS Quality Measure Set for children and youth. We are working to address that gap and expect to propose the inclusion of measures focused on children and youth in the HCBS Quality Measure Set in the future.

[22] For more information on States' use of HCBS CAHPS, NCI–AD, and NCI–IDD, see *https://www.medicaid.gov/state-overviews/scorecard/measure/State-Administration-of-Experience-of-Care-Surveys-for-Long-Term-Services-and-Supports?measure=HC.21&measureView=state&dataView=pointInTime&chart=map&timePeriods=%5B%222021%22%5D.*

[23] *https://www.federalregister.gov/d/2024-08363/p-327.*

mandatory measures in the 2028 HCBS Quality Measure Set.

We note that the HCBS Quality Measure Set Review Workgroup recommended adding three NCI–AD measures and one NCI–IDD measure to the HCBS Quality Measure Set:

- *NCI–AD:* Percentage of People Who Have Access to Mental Health Services if They Want Them
- *NCI–AD:* Percentage of People Who Have Needed Assistive Equipment and Devices
- *NCI–AD:* Percentage of People Who Know Whom to Contact if They Have a Complaint about Their Services
- *NCI–IDD:* Percentage of People Who Report That They Know Whom to Talk to if They Want to Change Services

We considered these recommendations in selecting the proposed mandatory measures for the 2028 HCBS Quality Measure Set. However, we are not proposing to include these measures as mandatory.

To select the experience of care survey measures for mandatory reporting by MFP grant recipients in 2026, we identified experience of care survey measures in the following four domains based on feedback from measure stewards, States, and State associations: community inclusion, person-centered care, safety, and transportation. We believe that these domains are particularly important for assessing quality of care and beneficiary experience in HCBS programs. Further, our intent in selecting the mandatory measures for 2026 MFP reporting was to identify measures across all four surveys that are focused on similar measure concepts. While we agree with the HCBS Quality Measure Set Review Workgroup that the four survey measures recommended for addition are focused on areas that are important to measure in HCBS, we did not identify comparable measures across the surveys that are sufficiently aligned in concept. We believe that the inclusion of measures from other surveys that are focused on similar measure concepts would support comparability and consistency of HCBS quality data across States and that cross-survey alignment can help to ensure that States using different surveys are reporting on conceptually similar measures. Because the four survey measures recommended for addition do not have comparable measures across the other surveys that are sufficiently aligned in concept, and in light of our goals of promoting comparability while balancing reporting burden and feasibility, we are not proposing to include these measures in the 2028 HCBS Quality Measure Set (as doing so would introduce inconsistencies in reporting across States using different experience of care surveys). In addition, we seek to achieve an appropriate balance between State reporting burden and having a comprehensive set of evidence-based quality measures that are important to making significant gains in quality of care and outcomes for people receiving HCBS. We request comment on whether the measures recommended for addition by the HCBS Quality Measure Set Workgroup should be included as mandatory measures in the 2028 HCBS Quality Measure Set.

Two of the proposed mandatory measures, LTSS–1 and LTSS–2, have HEDIS-equivalent measures.[24] In the informational bulletin for the 2024 HCBS Quality Measure Set, we indicated that, for measures with a HEDIS equivalent, States can opt to use the HEDIS equivalent for their managed care and fee-for-service (FFS) populations.[25] Consistent with that approach, we are soliciting comment on whether to allow States to report on the HEDIS equivalent of LTSS–1 and LTSS–2 to meet the proposed mandatory reporting requirement for those measures. We request comment on these proposed options for States.

Functional Assessment Standardized Items (FASI) is a set of reliable, valid person-centered standardized items developed and tested by CMS to measure functional status and need for assistance with everyday activities among Medicaid HCBS participants.[26] Two performance measures derived from FASI, FASI Performance Measure 1 (FASI–1): Identifying Personal Priorities for Functional Assessment Standardized Items (FASI) Needs [27] and FASI Performance Measure 2 (FASI–2): Alignment of Person-Centered Service Plan (PCSP) with Functional Needs as Determined by Functional Assessment Standardized Items,[28] can be used to assess State performance related to person-centered planning. In the informational bulletin for the 2024 HCBS Quality Measure Set, we indicated that States have the option to report on FASI–1 and FASI–2 in place of LTSS–1 and LTSS–2, respectively. Consistent with that approach, we are soliciting comment on whether to allow States to report on FASI–1 and FASI–2 in place of LTSS–1 and LTSS–2, respectively. We request comment on these proposed options for States.

As shown in Table 4, we are soliciting comment on collecting the data on the proposed mandatory measures through several different methods, depending on the measure. These methods include: CMS analyses using T–MSIS Analytic Files; [29] the HCBS CAHPS database; [30] the Medicaid Data Collection Tool (MDCT),[31] which we proposed to use to collect data on measures that are not available through existing data sources or that States opt to not have CMS report on their behalf using T–MSIS Analytic Files; NCI–AD survey data collection; and NCI–IDD survey data collection. Specifically, we are soliciting comment on whether to provide States the option to elect, for each of the three administrative data measures, to either self-report using a standardized form in MDCT or have CMS conduct analyses and report on the State's behalf using T–MSIS Analytic Files, consistent with § 441.312(d)(1)(iii). We are also proposing to require States that conduct the HCBS CAHPS survey to report the results to the HCBS CAHPS survey database managed by the Agency for Healthcare Research and Quality (AHRQ) and for CMS to work with AHRQ to obtain the survey results from the HCBS CAHPS database rather than through State reporting directly to CMS. For States that conduct NCI–AD and NCI–IDD, we are soliciting comment on States reporting the data through the existing processes for those surveys and for CMS to obtain the survey results directly from the measure stewards (ADvancing States and Human Services Research Institute (HSRI) for NCI–AD; and the National Association of State Directors of Developmental Disabilities Services (NASDDDS) and HSRI for NCI–IDD), rather than through State reporting directly to CMS. We believe these proposals would reduce State reporting

[24] For more information about the technical specifications for the LTSS measures, see *https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-quality/long-term-services-supports-quality-measures.*

[25] CMCS Informational Bulletin, ''2024 Home and Community-Based Services (HCBS) Quality Measure Set (QMS).'' Published April 11, 2024. Accessed at *https://www.medicaid.gov/federal-policy-guidance/downloads/cib041124.pdf.*

[26] For more information on FASI, see *https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-quality/functional-assessments-quality-improvement.*

[27] For more information on FASI–1, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=5223&sectionNumber=1.*

[28] For more information on FASI–2, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=5224&sectionNumber=1.*

[29] For information on T–MSIS and T–MSIS Analytic Files, see *https://www.medicaid.gov/medicaid/data-systems/macbis/transformed-medicaid-statistical-information-system-t-msis.*

[30] For information on the HCBS CAHPS database, see *https://www.ahrq.gov/cahps/cahps-database/hcbs-database/index.html.*

[31] For information on MDCT, see *https://www.medicaid.gov/resources-for-states/medicaid-and-chip-program-portal/medicaid-data-collection-tool-mdct-portal.*

burden by using existing data sources for the proposed measures to the extent feasible. CMS currently has an inter-agency agreement with AHRQ that allows CMS access to HCBS CAHPS survey data. CMS plans to establish similar agreements with other survey stewards to access NCI–AD and NCI–IDD data, as well as any State-level data use agreements that may be necessary to facilitate data sharing. For all other measures, we are soliciting comment on whether to require States to self-report the measures using a standardized form in MDCT, as we are not aware of existing data sources for those measures. We request comment on these proposals, particularly on whether there are existing data sources for any of the measures that States would otherwise need to self-report using a standardized form in MDCT.

TABLE 4—PROPOSED MANDATORY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET [32]

CMIT ID	Measure steward	Measure name	Type of data source	Technical specifications [33]	Method of reporting to CMS	Mandatory stratification for 2028
00095–01–C–LTSS	CMS	HCBS CAHPS: Choosing the Services That Matter to You Composite Measure.	Participant-Reported Data/Survey.	*Numerator:* The number of survey respondents who answered ''All'' to Question 56 and the number of respondents who answered ''Yes'' to Question 57 on the HCBS CAHPS Survey. *Denominator:* The number of survey respondents who answered ''Yes'' to HCBS CAHPS Survey screener questions 4, 6, 8, or 11.	HCBS CAHPS database.	No.
00095–03–C–LTSS	CMS	HCBS CAHPS: Personal Safety & Respect Composite Measure.	Participant-Reported Data/Survey.	*Numerator:* The number of survey respondents who gave the most positive response to each question, such as ''Yes'' to question 64, and ''No'' to questions 65 and 68 on the HCBS CAHPS Survey. *Denominator:* For each question in the scale, the denominator is the total number of respondents who answered the question.	HCBS CAHPS database.	No.
00095–04–C–LTSS	CMS	HCBS CAHPS: Physical Safety Single-Item Measure.	Participant-Reported Data/Survey.	*Numerator:* The number of survey respondents who answered ''No'' to question 71 on the HCBS CAHPS Survey. *Denominator:* The total number of survey respondents who answered the question.	HCBS CAHPS database.	No.
00095–07–C–LTSS	CMS	HCBS CAHPS: Transportation to Medical Appointments Composite Measure.	Participant-Reported Data/Survey.	*Numerator:* The number of survey respondents who gave the most positive response to each question, such as ''Always'' to questions 59 and 62, and ''Yes'' to question 61 on HCBS CAHPS. *Denominator:* For each question in the scale, the denominator is the total number of respondents who answered the question.	HCBS CAHPS database.	No.
00960–01–C–LTSS (MLTSS–1) and 00960–02–C–LTSS (FFS LTSS–1).	CMS	LTSS–1: Long-Term Services and Supports Comprehensive Assessment and Update [34] [35].	Assessment/Case Management System.	*Numerator:* The measure reports two numerators. *Rate 1:* Assessment of Core Elements: The number of Medicaid LTSS participants who had a long-term services and supports comprehensive assessment with ten core elements documented within 90 days of enrollment (for new participants) or during the measurement year (for established participants). *Rate 2:* Assessment of Supplemental Elements: The number of Medicaid LTSS participants who had a long-term services and supports comprehensive assessment with ten core elements and at least 12 supplemental elements documented within 90 days of enrollment (for new participants) or during the measurement year (for established participants). *Denominator:* A statistically valid random sample of Medicaid LTSS participant case management records drawn from the eligible population.	MDCT	Yes.

TABLE 4—PROPOSED MANDATORY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET [32]—Continued

CMIT ID	Measure steward	Measure name	Type of data source	Technical specifications [33]	Method of reporting to CMS	Mandatory stratification for 2028
00961–01–C–LTSS (MLTSS–2) and 00961–02–C–LTSS (FFS LTSS–2).	CMS	LTSS–2: Long-Term Services and Supports Comprehensive Person-Centered Plan and Update [36] [37].	Assessment/ Case Management System.	*Numerator:* The measure reports two numerators. *Rate 1:* Person-Centered Plan with Core Elements: Medicaid LTSS participants who had a long-term services and supports comprehensive care plan with ten core elements documented within 120 days of enrollment (for new participants) or during the measurement year (for established participants). *Rate 2:* Person-Centered Plan with Supplemental Elements Documented: The number of Medicaid LTSS participants who had a long-term services and supports comprehensive care plan with nine core elements and at least four supplemental elements documented within 120 days of enrollment (for new participants) or during the measurement year (for established participants). *Denominator:* A statistically valid random sample of Medicaid LTSS participant case management records drawn from the eligible population.	MDCT	Yes.
00020–03–C–LTSS (FFS LTSS–6) and 00020–04–C–LTSS (MLTSS–6).	CMS	LTSS–6: Long-Term Services and Supports Admission to a Facility from the Community.	Administrative Data.	*Numerator:* The number of facility admissions (FA) from a community residence from August 1 of the year prior to the measurement year through July 31 of the measurement year. The following three performance rates are reported across four age groups (18 to 64, 65 to 74, 75 to 84, and 85 and older). *Short-Term Stay:* The rate of admissions resulting in a short-term stay (1 to 20 days) per 1,000 Medicaid LTSS participant months. *Medium-Term Stay:* The rate of admissions resulting in a medium-term stay (21 to 100 days) per 1,000 Medicaid LTSS participant months. *Long-Term Stay:* The rate of admissions resulting in a long-term stay (greater than or equal to 101 days) per 1,000 Medicaid LTSS participant months. *Denominator:* Number of participant months where the participant was residing in the community for at least one day of the month.	MDCT or CMS-analyses using T–MSIS data.	Yes.
00968–01–C–LTSS (MLTSS–7) and 00968–01–C–LTSS (FFS LTSS–7).	CMS	LTSS–7: Long-Term Services and Supports Minimizing Facility Length of Stay.	Administrative Data.	*Numerator:* The count of discharges from a facility to the community during the measurement year that occurred within 100 days or fewer of admission. Discharges that result in death, hospitalization, or readmission to the facility within 60 days of discharge from the facility do not meet the element. *Denominator:* Number of facility admissions occurring during the measurement period, removing those for which the admission represented a transfer between facilities and those for which a death occurred while admitted (on the same day as the admission or within one day of discharge).	MDCT or CMS-analyses using T–MSIS data.	Yes.

TABLE 4—PROPOSED MANDATORY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET [32]—Continued

CMIT ID	Measure steward	Measure name	Type of data source	Technical specifications [33]	Method of reporting to CMS	Mandatory stratification for 2028
000414–03–C–LTSS (MLTSS–8) and 000414–04–C–LTSS (FFS LTSS–8).	CMS	LTSS–8: Long-Term Services and Supports Successful Transition after Long-Term Facility Stay.	Administrative Data.	*Numerator:* The count of discharges from a facility to the community from July 1 of the year prior to the measurement year through October 31 of the measurement year that result in a successful transition to the community for 60 consecutive days. Discharges that result in death, hospitalization, or readmission to the facility within 60 days of discharge from the facility do not meet the element. *Denominator:* Number of discharges occurring during the measurement period, removing those for which the discharge represented a transfer between facilities and those for which an expiration occurred while admitted (on the same day as the admission or within one day of discharge).	MDCT or CMS-analyses using T–MSIS data.	Yes.
00457–05–C–MACS.	ADvancing States, Human Services Research Institute (HSRI).	NCI–AD: Percentage of People Who are as Active in Their Community as They Would Like to Be.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who report ''Yes'' to the question. *Denominator:* The number of respondents who answered the question on the NCI–AD Adult Consumer Survey.	NCI–AD survey data collection.	No.
00457–10–C–MACS.	ADvancing States, HSRI.	NCI–AD: Percentage of People Who Feel Safe Around Their Support Staff.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who report ''Yes, All Paid Support Workers, Always or Almost Always.''. *Denominator:* The number of respondents who answered the question on the NCI–AD Adult Consumer Survey.	NCI–AD survey data collection.	No.
00457–13–C–MACS.	ADvancing States, HSRI.	NCI–AD: Percentage of People Who Have Transportation to Get to Medical Appointments When They Need to.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who report ''Yes'' to the question. *Denominator:* The number of respondents who answered the question on the NCI–AD Adult Consumer Survey.	NCI–AD survey data collection.	No.
00457–14–C–MACS.	ADvancing States, HSRI.	NCI–AD: Percentage of People Who Have Transportation When They Want to Do Things Outside of Their Home.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who report ''Yes'' to the question. *Denominator:* The number of respondents who answered the question on the NCI–AD Survey.	NCI–AD survey data collection.	No.
00457–17–C–MACS.	ADvancing States, HSRI.	NCI–AD: Percentage of People Whose Service Plan Includes Their Preferences and Choices.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who report ''Yes, all/completely'' to the question. *Denominator:* The number of respondents who answered the question on the NCI–AD Adult Consumer Survey optional module for person-centered planning.	NCI–AD survey data collection.	No.
01823–07–C–LTSS	National Association of State Directors of Developmental Disabilities Services (NASDDDS), HSRI.	NCI–IDD PCP–5: Satisfaction with Community Inclusion Scale (The Proportion of People Who Report Satisfaction with the Level of Participation in Community-Inclusion Activities).	Participant-Reported Data/Survey.	*Numerator of Each Constituent Item Score:* The number of people who reported satisfaction with the frequency of their participation in the indicated activity, or the number of people who report that they do not want to be part of more community groups. *Denominator of Each Constituent Item Score:* Number of people who provided a valid response. *Scale Calculation:* Mean of the item scores for respondents who provided valid responses to at least two of the questions.	NCI–IDD survey data collection.	No.
01823–03–C–MACS.	NASDDDS, HSRI	NCI–IDD CI–1: Social Connectedness (The Proportion of People Who Report that They Do Not Feel Lonely Often).	Participant-Reported Data/Survey.	*Numerator:* The number of people who responded ''no.''. *Denominator:* Number of people who provided a valid response.	NCI–IDD survey data collection.	No.

TABLE 4—PROPOSED MANDATORY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET [32]—Continued

CMIT ID	Measure steward	Measure name	Type of data source	Technical specifications [33]	Method of reporting to CMS	Mandatory stratification for 2028
01823–04–C–MACS.	NASDDDS, HSRI	NCI–IDD CI–3: Transportation Availability Scale (The Proportion of People Who Report Adequate Transportation).	Participant-Reported Data/Survey.	*Numerator of Each Constituent Item Score:* The number of people with the top box score. *Denominator of Each Constituent Item Score:* Number of people who provided a valid response. *Scale Calculation:* Mean of the two item scores for respondents who provided valid responses to both questions.	NCI–IDD survey data collection.	No.
01823–05–C–LTSS	NASDDDS, HSRI	NCI–IDD HLR–1: Respect for Personal Space Scale (The Proportion of People Who Report that Their Personal Space is Respected in the Home).	Participant-Reported Data/Survey.	*Numerator of Each Constituent Item Score:* The number of people with the top box score. *Denominator of Each Constituent Item Score:* Number of people who provided a valid response.	NCI–IDD survey data collection.	No.
01823–06–C–LTSS	NASDDDS, HSRI	NCI–IDD PCP 2: Person-Centered Goals (The Proportion of People Who Report their Service Plan Includes Things that are Important to Them).	Participant-Reported Data/Survey.	*Numerator:* The number of people with the top box score. *Denominator:* Number of people who provided a valid response.	NCI–IDD survey data collection.	No.
01822–01–C–LTSS	Council on Quality and Leadership (CQL).	POM: People are free from abuse and neglect.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who are not subjected to abuse, neglect, mistreatment, or exploitation from anyone. *Denominator:* The number of survey respondents (people with disabilities 18 and older) who provided valid answers to the survey question.	MDCT	No.
01822–02–C–LTSS	CQL	POM: People Choose Services.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who choose the services/supports they receive, their provider organizations, and their direct support professionals/staff. *Denominator:* The number of survey respondents (people with disabilities 18 and older) who provided valid answers to the survey question.	MDCT	No.
01822–06–C–LTSS	CQL	POM: People Participate in the Life of the Community.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who participate in the life of the community, with the type and frequency of participation they prefer. *Denominator:* The number of survey respondents (people with disabilities 18 and older) who provided valid answers to the survey question.	MDCT	No.
01822–07–C–LTSS	CQL	POM: People Realize Personal Goals.	Participant-Reported Data/Survey.	*Numerator:* The number of respondents who accomplish goals significant to them. *Denominator:* The number of survey respondents (people with disabilities 18 and older) who provided valid answers to the survey question.	MDCT	No.

B. Proposed Voluntary Measures

As discussed in sections I.A., I.C., and II.A. of this notice with comment period, we used the 2024 HCBS Quality Measure Set as the basis for the 2028 HCBS Quality Measure Set. We also considered the recommendations of the HCBS Quality Measure Set Review Workgroup and existing reporting requirements for the 41 States and territories participating in the MFP demonstration. LTSS–4: Reassessment

[32] The measures listed in this table are the same as the measures that MFP grant recipients are expected to report on in 2026.

[33] For measures with separate FFS and MLTSS versions, there may be some wording differences in the technical specifications for the FFS and/or MLTSS versions compared to the information presented in this table. This table is for informational purposes only for the ease of commenting on the proposed measures. We refer the reader to the detailed technical specifications maintained by the measure steward for the most up to date technical specifications and additional information on the measures.

[34] We are soliciting comments on whether to give States the option to report on the HEDIS equivalent of LTSS–1 in place of LTSS–1.

[35] We are soliciting comments on whether to give States the option to report on FASI–1 in place of LTSS–1. For more information on FASI–1, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=5223&sectionNumber=1.*

[36] We are soliciting comments on whether to give States the option to report on the HEDIS equivalent of LTSS–2 in place of LTSS–2.

[37] We are soliciting comments on whether to give States the option to report on FASI–2 in place of LTSS–2. For more information on FASI–2, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=5224&sectionNumber=1.*

and Person-Centered Plan Update after Inpatient Discharge and MLTSS–5: Screening, Risk Assessment, and Plan of Care to Prevent Future Falls are included in the 2024 HCBS Quality Measure Set and are voluntary for MFP grant recipients to report on in 2026. We are soliciting comments on whether to include these two assessment/case management system measures as voluntary measures in the 2028 HCBS Quality Measure Set. These measures focus on person-centered planning after inpatient discharge (LTSS–4) and reducing the risk of falls (MLTSS–5). LTSS–4 addresses the timeliness and person-centeredness of reassessments following a discharge, which supports continuity of care and aligns with the person-centered planning domain. MLTSS–5 supports fall risk mitigation efforts and care planning for older adults and others at risk of injury in the community setting, which aligns with the safety and wellness domain. Both measures were developed through CMS-led measure development efforts and are considered feasible for reporting using existing data sources because the required information is already contained in assessment and case management records. However, we also recognize the burden associated with quality measurement and reporting, particularly for measures that require assessment or case management records. As stated earlier in section II.A. of this notice with comment period, our goal is to balance the administrative burden on States with the need for a comprehensive, evidence-based measure set that can drive improvement in quality and outcomes. We believe that including these measures as voluntary measures in 2028 would allow States to gain experience implementing these measures and will provide CMS with data to evaluate their value and reporting feasibility before considering whether broader adoption is warranted. We request comment on our proposals to include LTSS–4 and MLTSS–5 as voluntary measures in the 2028 HCBS Quality Measure Set.

We are also proposing to give States the option to voluntarily report any HCBS CAHPS, NCI–AD, NCI–IDD, or POM measure that is not proposed for inclusion in the 2028 HCBS Quality Measure Set as a mandatory measure. Rather than proposing each such measure as a specific voluntary measure, we are proposing to give States this option generally. We believe that including all of these measures as specific voluntary measures would result in an excessive number of voluntary measures. This, in turn, could make it difficult for States to use the list of voluntary measures to identify measures that would be meaningful and useful for quality improvement purposes, and make it unlikely that a sufficient number of States would report on each measure to support public reporting or provide States with comparative data for quality improvement purposes. Based on our review of the remaining survey measures, we have not, at this time, identified a compelling justification for including additional voluntary measures. We welcome comment or additional evidence that could inform future selection decisions. However, we also believe that participant-reported survey measures are important for understanding the perspectives and experiences of beneficiaries and provide valuable indicators of quality and outcomes that often cannot be measured using other data sources. As a result, rather than proposing the inclusion of specific survey measures as voluntary measures, we are soliciting comments on whether to allow States to report as voluntary measures any HCBS CAHPS, NCI–AD, NCI–IDD, and POM measure not included as mandatory measures.[38] We also welcome comments on potential uses of voluntarily reported data, including considerations around publication and utility for quality improvement. We believe that allowing States to report as voluntary measures any HCBS CAHPS, NCI–AD, NCI–IDD, and POM measure not included as mandatory measures recognizes the importance and value of participant-reported survey measures and provides States flexibility to report on survey measures that are most meaningful for their programs and quality improvement efforts. We request comment on this proposed approach.

Table 5 provides the proposed voluntary measures in the 2028 HCBS Quality Measure Set. Similar to Table 4, Table 5 includes the CMIT ID,[39] the measure steward, the measure name, the type of data source, the method of reporting to CMS, and brief technical specifications for each proposed measure. As with the proposed mandatory measures, the CMIT ID, measure steward, and measure name are provided to clearly identify each proposed voluntary measure. Commenters are encouraged to use the CMIT ID and/or the measure name as written in the table when referencing specific measures in comments. The type of data source provides information on the type of data States would need to collect and analyze to report on the measure, as determined by the measure steward. The technical specifications provide information on the numerator and denominator for each measure and are provided for informational purposes only. The method of reporting to CMS provides information on our proposed method for States to report the results of each proposed measure. More detailed information on each measure is available in CMIT or from the measure steward for each measure. We discuss the proposed method of reporting each measure later in this section.

We considered whether to include, as voluntary measures in the 2028 HCBS Quality Measure Set, five other measures that are included in the 2024 HCBS Quality Measure Set. These include: FASI–1 and FASI–2, which are discussed in more detail in section II.A. of this notice with comment period; HCBS–10: Self-Direction of Services and Supports among Medicaid Beneficiaries Receiving LTSS through Managed Care Organizations; Plan All-Cause Readmission; and LTSS–3: Shared Person-Centered Plan with Primary Care Provider. As discussed earlier in section II.A. of this notice with comment period, we are soliciting comments on whether to allow States to report on FASI–1 and FASI–2, in place of two proposed mandatory measures, LTSS–1 and LTSS–2, respectively. We believe there is little value in also including FASI–1 and FASI–2 as proposed voluntary measures in the 2028 HCBS Quality Measure Set, as it is very unlikely that a State would report on both LTSS–1 and FASI–1 or both LTSS–2 and FASI–2 because the measures address similar aspects of person-centered planning.

HCBS–10 is a CMS-stewarded process measure that relies on case management record data and assesses the offer, and selection, of self-directed services among adult MLTSS enrollees who receive HCBS.[40] While this is the only measure in the 2024 HCBS Quality Measure Set that is focused explicitly on self-direction in HCBS, we have received feedback from interested parties that it is an administratively burdensome measure and that it provides unclear information on quality

[38] As discussed earlier in sections I.C. and II.A. of this notice with comment period, the HCBS Quality Measure Set Review Workgroup recommended adding three NCI–AD measures and one NCI–IDD measure to the HCBS Quality Measure Set. Based on this proposal and the rationale for this proposal, we are not proposing the addition of the NCI–AD and NCI–IDD measures recommended for addition by the workgroup.

[39] CMIT is available at *https://cmit.cms.gov/cmit/#/*.

[40] For more information on HCBS–10, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=13283&sectionNumber=1*.

of care or outcomes. As a result, we are not proposing HCBS–10 for inclusion as a voluntary measure in the 2028 HCBS Quality Measure Set.

Plan All-Cause Readmission is a HEDIS measure that assesses the percentage of acute inpatient and observation stays during the measurement year that were followed by an unplanned acute readmission for any diagnosis within 30 days, for participants 65 years of age and older.[41] It is available for use in managed care only, does not have a FFS equivalent, and is focused only on the older adult population. As such, we are not proposing Plan All-Cause Readmission for inclusion as a voluntary measure in the 2028 HCBS Quality Measure Set.

LTSS–3 is a CMS-stewarded measure, with a FFS and managed care version, that relies on case management record data and assesses the percentage of Medicaid LTSS participants, aged 18 and older, with a person-centered plan transmitted to their primary care provider (or other documented medical care provider) identified by the participant within 30 days of its development.[42] LTSS–3 was recommended for removal from the HCBS Quality Measure Set by the HCBS Quality Measure Set Review Workgroup. The Workgroup believed that the value of this measure did not justify the high administrative burden States will experience collecting and reporting it, due to the manual effort associated with reviewing case management records in many States. Members of the Workgroup also asserted that such measures are often highly scored, providing limited opportunity for further improvement and generating few insights into actual quality of care. Given the proposed inclusion of other measures focused on person-centered care, we are not proposing to include LTSS–3 in the 2028 HCBS Quality Measure Set. We request comment on whether FASI–1, FASI–2, HCBS–10, Plan All-Cause Readmission, or LTSS–3 should be included as voluntary measures in the 2028 HCBS Quality Measure Set.

Consistent with our proposed approach to collecting the data for the proposed mandatory measures, we are soliciting comments on whether to collect the data on voluntary measures through several different methods, depending on the measure. These methods include CMS analyses using T–MSIS Analytic Files;[43] the HCBS CAHPS database; the MDCT;[44] NCI–AD survey data collection; and NCI–IDD survey data collection. Specifically, we are soliciting comments on whether to provide States the option to self-report administrative data measures using a standardized form in MDCT or for CMS to conduct analyses and report on the State's behalf using T–MSIS Analytic Files, consistent with § 441.312(d)(1)(iii).[45] We are also proposing for States that conduct the HCBS CAHPS survey to report the results to the HCBS CAHPS survey database managed by AHRQ and for CMS to work with AHRQ to obtain the survey results from the HCBS CAHPS database rather than through State reporting directly to CMS. For States that conduct NCI–AD and NCI–IDD, we are soliciting comments on whether data should be reported through the existing processes for those surveys, with CMS obtaining results directly from the measure stewards (ADvancing States and HSRI for NCI–AD; and NASDDDS and HSRI for NCI–IDD), rather than through State reporting directly to CMS. We believe these proposals would reduce State reporting burden by using existing data sources for the proposed measures to the extent feasible. For all other measures (including the two proposed voluntary measures, LTSS–4 and MLTSS–5), we are soliciting comments on whether to require States to self-report the measures using a standardized form in MDCT, as we are not aware of existing data sources for those measures. We request comment on these proposals, particularly related to whether there are existing data sources for measures for which States would need to self-report the measures using a standardized form in MDCT.

TABLE 5—PROPOSED VOLUNTARY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET

CMIT No.	Measure steward	Measure name	Type of data source	Method of reporting to CMS	Technical specifications[46]
00962–01–C–LTSS (MLTSS–4) and 00962–02–C–LTSS (FFS LTSS–4).	CMS	LTSS–4: Reassessment and Person-Centered Plan Update after Inpatient Discharge.	Assessment/ Case Management System.	MDCT	*Numerator:* The measure reports two numerators. *Rate 1:* Reassessment after Inpatient Discharge. The percentage of discharges from inpatient facilities resulting in a long-term services and supports reassessment within 30 days of discharge. *Rate 2:* Reassessment and Person-Centered Plan Update after Inpatient Discharge. The percentage of discharges from inpatient facilities resulting in a long-term services and supports reassessment and care plan update within 30 days of discharge.

[41] For more information on the Plan All-Cause Readmission Measure, see *https://cmit.cms.gov/cmit/#/MeasureView?variantId=13284&sectionNumber=1.*

[42] For more information on LTSS–3, see *https://cmit.cms.gov/cmit/#/FamilyView?familyId=963.*

[43] For information on T–MSIS and T–MSIS Analytic Files, see *https://www.medicaid.gov/medicaid/data-systems/macbis/transformed-medicaid-statistical-information-system-t-msis.*

[44] For information on MDCT, see *https://www.medicaid.gov/resources-for-states/medicaid-and-chip-program-portal/medicaid-data-collection-tool-mdct-portal.*

[45] Although we are not proposing any administrative data measures for voluntary reporting, we have included our proposed approach to collecting data on administrative data measures in the event that we include administrative data measures in the 2028 HCBS Quality Measure Set as voluntary measures.

TABLE 5—PROPOSED VOLUNTARY MEASURES IN THE 2028 HCBS QUALITY MEASURE SET—Continued

CMIT No.	Measure steward	Measure name	Type of data source	Method of reporting to CMS	Technical specifications [46]
01255–01–C–LTSS	CMS	MLTSS–5: Screening, Risk Assessment, and Plan of Care to Prevent Future Falls.	Assessment/ Case Management System.	MDCT	*Denominator:* A statistically valid random sample of inpatient discharges drawn from the eligible population. The denominator is based on discharges, not on participants. Participants may appear more than once in the sample. *Numerator:* The number of Medicaid MLTSS participants who have documentation of an evaluation of whether the participant has experienced a fall or problems with balance or gait. *Denominator:* A statistically valid random sample of Medicaid MLTSS participants drawn from the eligible population.
Varies	Varies	Any HCBS CAHPS, NCI–AD, NCI–IDD, or POM measure not included in the proposed list of mandatory measures.	Participant-Reported Data/Survey.	HCBS CAHPS database, NCI–AD survey data collection, NCI–IDD survey data collection, or MDCT, as applicable.	Varies.

C. Proposed Stratification Requirements

As discussed earlier in section I.B. of this notice with comment period, at § 441.312(f), we established a phase-in schedule for stratified reporting that requires States to provide stratified data for 25 percent of the measures in the HCBS Quality Measure Set by July 9, 2028, 50 percent by July 9, 2030, and 100 percent by July 9, 2032. To meet this requirement, States are required to provide stratified data for 25 percent of the mandatory measures in the 2028 HCBS Quality Measure Set. In section II.A. of this notice with comment period, we indicated that we are soliciting comments on whether to include a total of 23 mandatory measures in the 2028 HCBS Quality Measure Set. However, we also clarified that we are not proposing to require States to report on all 23 measures. Instead, the number of measures that each State would need to report in 2028 would vary based on the populations served in the State's HCBS programs and the survey(s) selected by the State. We further clarified that we believe that each State would need to report up to 19 proposed mandatory measures in the 2028 HCBS Quality Measure Set. As a result, we are soliciting comments on whether to determine the number of proposed mandatory measures that would require stratification using the likely maximum number of measures that States would need to report, rather than the total number of proposed mandatory measures in the 2028 HCBS Quality Measure Set. Specifically, we are soliciting comments on whether to require States to report stratified data for five of the mandatory measures. We believe this approach more effectively recognizes the practical implications of the design of the 2028 HCBS Quality Measure Set than an approach based on the total number of proposed measures.

The specific measures proposed for required stratification are identified in Table 4 in section II.A. of this notice with comment period and include two assessment and care planning measures (LTSS–1 and LTSS–2) and three administrative data measures (LTSS–6, LTSS–7, and LTSS–8). We believe that these measures are feasible for States to stratify, and that the administrative data measures in particular would be relatively low burden for State reporting, particularly for States that opt for CMS to report the results on their behalf. Further, we are concerned that requiring stratified reporting of participant-reported measures from experience of care surveys could be difficult for States to implement due to small sample sizes, missing demographic information, and the potential need to increase sample sizes or oversample certain populations, which could increase survey costs and beneficiary burden. As discussed earlier in section I.B. of this notice with comment period, at § 441.312(f), we established that, in specifying the measures and the factors by which States must report stratified measures, the Secretary will consider whether such stratified sampling can be accomplished based on valid statistical methods, without risking violating beneficiary privacy, and, for measures obtained from surveys, whether the original survey instrument collects the variables or factors necessary to stratify the measures. We believe that our proposal to not require stratified reporting of survey measures in the 2028 HCBS Quality Measure Set is consistent with § 441.312(f). We request comment on our proposals, including whether any of the measures proposed for required stratification would not be feasible for States to stratify without undue burden or cost, whether States should be required to stratify any of the mandatory participant-reported survey measures, and whether the proposed stratification requirements would result in undue privacy risk.

For each of the measures we are soliciting comments on whether to require States to stratify, we are soliciting comments on whether to require stratification by geography, using a minimum standard of core-based statistical area (CBSA) [47] with a recommendation to move towards Rural-Urban Commuting Area Codes.[48] We are not proposing to require stratification for any other factors. We acknowledge that stratified data can be beneficial for identifying populations or groups that receive poorer quality care

[46] For the measure with separate FFS and MLTSS versions, there may be some wording differences in the technical specifications for the FFS and/or MLTSS versions compared to the information presented in this table. This table is for informational purposes only for the ease of commenting on the proposed measures. We refer the reader to the detailed technical specifications maintained by the measure steward for the most up to date technical specifications and additional information on the measures.

[47] Available at *https://www.census.gov/geographies/reference-maps/2020/geo/cbsa.html.*

[48] Available at *https://www.ers.usda.gov/data-products/rural-urban-commuting-area-codes/.*

or have worse outcomes, but we also recognize that requiring States to report stratified data can increase reporting burden and costs. Further, most States have limited experience with reporting on one or more of the proposed mandatory measures in the 2028 HCBS Quality Measure Set. In addition to feasibility and burden, privacy concerns may limit States' ability to stratify measures with small cell sizes. For the initial implementation of the HCBS Quality Measure Set reporting requirements at § 441.311(c), we believe that it is important for States to focus their efforts primarily on timely and accurate reporting of the mandatory measures in the HCBS Quality Measure Set and on developing and implementing quality improvement strategies for the measures. We also note that direct care workforce shortages are particularly acute in many rural areas, beneficiaries have less access to HCBS in rural areas than in urban areas, and beneficiaries may have fewer options for both services and service providers in rural areas than in more urban areas.[49] [50] These challenges, along with unique issues faced in rural areas (*e.g.,* long travel times to reach beneficiaries which can delay timely access to care, lack of cell phone or broadband coverage which can reduce access to telehealth and remote care services), may lead to higher rates of unmet needs, poorer quality of care, and worse outcomes for people receiving HCBS in rural areas compared to those in more urban areas.[51] [52] [53] [54] For these reasons, we believe it is important to identify differences in HCBS quality based on geography.

We note that States routinely collect information on geographic location for all beneficiaries as part of eligibility and enrollment processes. As a result, we believe it is feasible for States to stratify by geography for all of the measures we are soliciting comments on requiring States to stratify. CMS also has the capability, using T–MSIS data, to stratify the three administrative measures (LTSS–6, LTSS–7, and LTSS–8) by geography. We are soliciting comments on both requiring States to stratify these measures and, for the administrative measures, whether to allow CMS to report results on States' behalf. In addition, we note that geography is one of the required factors for stratification of the Core Set of Adult Health Care Quality Measures for Medicaid (Adult Core Set), and including geographic stratification within the HCBS Quality Measure Set would align with that precedent.

We request comment on this proposal, including on the feasibility of stratifying LTSS–1, LTSS–2, LTSS–6, LTSS–7, and LTSS–8 by geography. We also note that we are exploring the feasibility of requiring States to stratify quality measures across additional stratification categories. We request comment on whether we should require stratification by eligibility group, age, other demographic characteristics, or other factors.

D. Proposed Reporting Populations and Proposed Attribution Rules for Reporting on Beneficiaries Who Meet Criteria for More Than One HCBS Population

As discussed earlier in section I.B. of this notice with comment period, at § 441.311(c), States are required to report every other year, beginning July 9, 2028, on the HCBS Quality Measure Set for services approved and delivered under sections 1915(c), 1915(i), 1915(j), and 1915(k) of the Act. In addition, consistent with the applicability of other HCBS regulatory requirements to such demonstration projects, the requirements for section 1915(c) waiver programs and for section 1915(i), (j), and (k) State plan services included in the rule would apply to such services included in approved section 1115 demonstration projects, unless we explicitly waive one or more of the requirements as part of the approval of the demonstration project.[55] Based on the requirements finalized at § 441.311(c), States must report on the mandatory measures in the HCBS Quality Measure Set for all Medicaid-funded HCBS under section 1915(c), (i), (j), and (k) authorities, as well as section 1115 demonstrations that include HCBS. Reporting must include all eligible individuals receiving HCBS under these authorities (or a sample of eligible individuals that is drawn following the technical specifications for the measure, if applicable).

With the exception of the proposed stratification requirements discussed earlier in section II.A. of this notice with comment period, we are soliciting comments on whether State reporting on each mandatory measure (and each voluntary measure, if applicable) should be in the aggregate across all of the applicable HCBS programs subject to the requirements at § 441.311(c). We are not proposing to require States to report separately for each HCBS program or authority. This approach is intended to reduce reporting burden, particularly during early implementation, and promote consistency and comparability of reported data across States. We are also not proposing that States report separately by delivery system or managed care plan. However, we will consider allowing States, at their option, to report at the program, authority, delivery system, or managed care plan level. If we allow optional reporting at these more granular levels, States would still be expected to report at the aggregate level. We request comment on our proposal for aggregate reporting and whether we should consider requiring alternative levels of reporting, such as at the program, authority, delivery system, or managed care plan level.

Individuals who receive services through multiple HCBS programs, authorities, delivery systems, or managed care plans during the measurement period could be included in the denominator of a measure for more than one program, authority, delivery system, or managed care plan if a State reports at the program, authority, delivery system, or managed care plan level at their option. As we discuss in section II.A. of this notice with comment period, when individuals can be included in the sample for multiple experience of care surveys, we are not proposing to require States to

[49] CMS. Strengthening the Direct Service Workforce in Rural Areas. Accessed at *https://www.medicaid.gov/sites/default/files/2023-01/hcbs-strengthening-dsw-rural-areas.pdfhcbs-strengthening-dsw-rural-areas.pdf.*

[50] Dill, J., C. Henning-Smith, R. Zhu, E. Vomacka. Who Will Care for Rural Older Adults? Measuring the Direct Care Workforce in Rural Areas. J Appl Gerontol. 2023 Aug;42(8):1800–1808. doi: 10.1177/07334648231158482. Epub 2023 Feb 16. PMID: 36794536; PMCID: PMC10427731. Accessed at *https://pmc.ncbi.nlm.nih.gov/articles/PMC10427731/.*

[51] CMS. Strengthening the Direct Service Workforce in Rural Areas. Accessed at *https://www.medicaid.gov/sites/default/files/2023-01/hcbs-strengthening-dsw-rural-areas.pdfhcbs-strengthening-dsw-rural-areas.pdf.*

[52] Campbell, S., A. Del Rio Drake, R. Espinoza, K. Scales. 2021. Caring for the future: The power and potential of America's direct care workforce. Bronx, NY: PHI. Accessed at *http://phinational.org/wp-content/uploads/2021/01/Caring-for-the-Future-2021-PHI.pdf.*

[53] Bauerly B.C., R.F. McCord, R. Hulkower, D. Pepin. Broadband Access as a Public Health Issue: The Role of Law in Expanding Broadband Access and Connecting Underserved Communities for Better Health Outcomes. J Law Med Ethics. 2019 Jun;47(2_suppl):39–42. doi: 10.1177/1073110519857314. PMID: 31298126; PMCID: PMC6661896. Accessed at *https://pmc.ncbi.nlm.nih.gov/articles/PMC6661896/.*

[54] Siconolfi, D., R.A. Shih, E.M. Friedman, V.I. Kotzias, S.C. Ahluwali, J.L. Phillips, D. Saliba. Rural-Urban Disparities in Access to Home- and Community-Based Services and Supports: Stakeholder Perspectives From 14 States. J Am Med Dir Assoc. 2019 Apr;20(4):503–508.e1. doi: 10.1016/j.jamda.2019.01.120. Epub 2019 Mar 1. PMID: 30827892; PMCID: PMC6451868. Accessed at *https://pmc.ncbi.nlm.nih.gov/articles/PMC6451868/.*

[55] *https://www.federalregister.gov/d/2024-08363/p-316.*

ensure that survey samples are deduplicated due to the administrative complexity of deduplicating samples across multiple experience of care surveys and entities involved in survey administration. However, we believe that States would experience less administrative complexity with deduplicating their results for measures that use other data sources than they would for survey-based measures. We also believe that deduplicated results would provide more accurate results than reporting that is not deduplicated. As a result, for all proposed mandatory measures that use data sources other than surveys, we are proposing to require States to deduplicate their results for each measure when reporting at the aggregate level. That is, for measures that use administrative data or assessment/case management system data, States would be required to deduplicate aggregate results where an individual should be counted only once in the denominator under the measure's technical specifications.

In implementing the proposed requirement for States to report deduplicated results for measures that use administrative data or assessment/case management system data, States would be expected to follow the technical specifications of each measure, including any requirements related to attribution and population-specific reporting. If an individual receives services through multiple HCBS programs, authorities, delivery systems, or managed care plans and the State needs to establish additional attribution rules beyond those in the measure's technical specifications to assign an individual to a particular population for the purpose of deduplicating results, we are proposing to provide States with flexibility to set such attribution rules so long as each State uses a consistent approach to attribute individuals to a single population for purposes of reporting. We request comment on our proposed approach related to attribution rules and whether additional guidance is needed.

We note that, in implementing our proposed requirement for States to report in the aggregate across all of the applicable HCBS programs subject to the requirements at § 441.311(c), States would be expected to follow the technical specifications of each measure. In particular, States would be expected to include only the populations eligible for each measure and to report stratified data or multiple performance rates if applicable to the measure as detailed in the technical specifications. Further, measures such as LTSS–1, LTSS–2, LTSS–4, LTSS–6, LTSS–7, and LTSS–8 have separate FFS and managed care versions. States would be expected to report separately on the FFS and managed care versions of such measures, to the extent that the States deliver HCBS under both FFS and managed care.

E. Proposed Reporting Schedule

Section 441.311(c) requires that States report every other year, beginning July 9, 2028, on the HCBS Quality Measure Set for services approved and delivered under sections 1915(c), 1915(i), 1915(j), and 1915(k) of the Act. As discussed earlier in section I.B. of this notice with comment period, MFP grant recipients are required to report on the HCBS Quality Measure Set, beginning in fall 2026 and every other year thereafter. In establishing the reporting schedule for MFP grant recipients, we considered the amount of time needed for State reporting following the end of each calendar year. We also considered the timeframes for State reporting on the Adult Core Set, which generally opens in September and closes at the end of each calendar year. As discussed in sections II.A. and B. of this notice with comment period, we are soliciting comments on collecting data for the mandatory and voluntary measures in the 2028 HCBS Quality Measure Set through several different data sources, including State reporting in MDCT, CMS-conducted analyses using T–MSIS Analytic Files, the HCBS CAHPS survey database, NCI–AD survey data collection, and NCI–IDD survey data collection. For measures reported using available data sources, we will work with the entities responsible for that data to establish data feeds and obtain the relevant data based on data availability. For measures reported in MDCT, we are soliciting comments on whether to establish a State reporting window, similar to that for the Adult Core Set, that would open September 1, 2028, and close on December 31, 2028, and on whether an alternate schedule would be preferred. We request comment on this proposal, including the feasibility of State reporting of relevant measures in MDCT by December 31, 2028.

In the April 11, 2024, informational bulletin describing the HCBS Quality Measure Set reporting requirements for MFP grant recipients, we indicated that MFP grant recipients must report on the measures in the HCBS Quality Measure Set beginning in the fall 2026 for the 2025 performance period (that is, reporting on data primarily collected during calendar year 2025). After discussions with States and measure stewards, we provided MFP grant recipients with additional flexibility on the timing of fielding experience of care surveys. This flexibility applies solely to survey fielding; the reporting timeline remains unchanged. Specifically, MFP grant recipients that conduct HCBS CAHPS and/or POM can field those surveys at any time during calendar year 2024 or 2025. MFP grant recipients that conduct NCI–AD and/or NCI–IDD can field those surveys during the July 2024–June 2025 or July 2025–June 2026 reporting cycles. This flexibility was intended to provide MFP grant recipients that conduct multiple experience of care surveys with flexibility to meet the reporting requirements by staggering the administration of the surveys, such as by conducting NCI–AD in the 2024–2025 reporting cycle and NCI–IDD in the 2025–2026 reporting cycle. We have also indicated to MFP grant recipients that we plan to provide them with similar flexibility on the timing of experience of care surveys for future reporting periods. We believe that such flexibility can support States in budgeting for survey costs and allocating staffing and contract resources towards survey administration. As such, we are soliciting comments on whether to retain similar flexibility in the 2028 HCBS Quality Measure Set by allowing States that conduct HCBS CAHPS and/or POM to field those surveys at any time during calendar year 2026 or 2027, and States conducting NCI–AD and/or NCI–IDD to field those surveys during the July 2026–June 2027 or July 2027–June 2028 reporting cycles. We request comment on our proposed timeframes for States to field experience of care surveys for the 2028 HCBS Quality Measure Set, including our proposed flexibility for States to conduct experience of care surveys during a two-year time period.

Table 6 provides the measurement periods for the proposed administrative data and assessment/case management measures. For each proposed measure included in the table, the table provides the measurement period for the denominator, numerator, and continuous enrollment period, based on the technical specifications for each measure. We refer commenters to the technical specifications for each measure for additional information on the measurement periods. We welcome feedback on the measurement periods for each measure as to the feasibility of State reporting in 2028.

F. Proposed Exemption for Small Numbers

CMS has a cell size suppression policy that is intended to protect the confidentiality of Medicare and Medicaid beneficiaries by avoiding the release of information that can be used to identify individual beneficiaries.[56] The policy sets minimum thresholds for the display of CMS data and stipulates that no cell (for example, admissions, discharges, patients, or services) containing a value of 1 to 10 can be reported directly, nor can any cell be reported that would allow a value of 1 to 10 to be derived from other reported cells or information. While this policy specifically applies to the display of CMS data, we are soliciting comment on aligning State-to-CMS reporting with this policy by proposing to allow States to suppress any numerator, denominator, or other component of a measure with a value of 1 to 10, or that would allow such a value to be derived from other reported cells or information. For example, larger thresholds may be warranted in cases where reporting data for small populations is still associated with substantial risk of identification despite suppression at the 1 to 10 level. A higher threshold may also help reduce burden for States that would otherwise need to redact or collapse data before submission. In addition, alignment with suppression practices used in other reporting programs may support consideration of a higher threshold. We request comment on this proposal, including whether we should allow States to suppress values larger than 10, such as up to 25, up to 50, or up to 100, due to beneficiary privacy, State reporting burden, or other factors.

TABLE 6—MEASUREMENT PERIODS FOR PROPOSED ADMINISTRATIVE DATA AND ASSESSMENT/CASE MANAGEMENT SYSTEM MEASURES IN THE 2028 QUALITY MEASURE SET

Measure	Proposed 2028 measurement period		
	Denominator	Numerator	Continuous enrollment period
LTSS–1: Long-Term Services and Supports Comprehensive Assessment and Update.	Includes participants from eligible population enrolled for at least 150 days.	Event occurs within 90 days of enrollment for new participants or during the measurement year for established participants.	August 1, 2026–December 31, 2027.
LTSS–2: Long-Term Services and Supports Comprehensive Person-Centered Plan and Update.	Not applicable	Event occurs within 120 days of enrollment for new participants or during the measurement year for established participants.	August 1, 2026–December 31, 2027.
LTSS–4: Reassessment and Person-Centered Plan Update after Inpatient Discharge.	January 1, 2027–December 1, 2027	Not applicable	Enrollment in Medicaid LTSS on the date of discharge through 30 days following the date of discharge.
MLTSS–5: Screening, Risk Assessment, and Plan of Care to Prevent Future Falls.	Not applicable	August 1, 2026–December 31, 2027	August 1, 2026–December 31, 2027.
LTSS–6: Long-Term Services and Supports Admission to a Facility from the Community.	August 1, 2026–July 31, 2027	August 1, 2026–July 31, 2027	August 1, 2026–July 31, 2027.
LTSS–7: Long-Term Services and Supports Minimizing Facility Length of Stay.	July 1, 2026–October 31, 2027	July 1, 2026–June 30, 2027	Enrollment in Medicaid LTSS on the facility admission date through 160 days following the facility admission date.
LTSS–8: Long-Term Services and Supports Successful Transition after Long-Term Facility Stay.	All participants residing in a facility on July 1 of the year prior to the measurement year and who were residing in the facility for at least 101 days.	July 1, 2026–October 31, 2027	July 1, 2026–December 31, 2027.

III. Collection of Information Requirements

As indicated in section V. of this notice with comment period, this notice does not propose any new or revised collection of information requirements or burden. Instead, this notice with comment period is intended to satisfy, in part, the provisions under § 441.312(c)(4), which requires the Secretary to develop and update the HCBS Quality Measure Set using a process that allows for public input and comment.

To develop the initial 2028 HCBS Quality Measure Set, a solicitation for public review on such measures was issued in July 2024. We are using this notice with comment period for the 2028 HCBS Quality Measure Set and similar subsequent **Federal Register** notices as the vehicle for notifying the public of the availability to review the applicable version of the HCBS Quality Measure Set and of the opportunity to comment on such.

As noted in section I.C. of this notice with comment period, an independent HCBS Quality Measure Set Review Workgroup was established to review each of the measures suggested through the public call for measures. In addition to their review, the Workgroup voted on and recommended measures to add/remove from the 2028 HCBS Quality Measure Set. The purpose of this notice with comment period is to notify the public of the availability of the 2028 HCBS Quality Measure Set and to solicit comment.

Separate from this notice, the HCBS Quality Measure Set's reporting requirements and burden will be submitted to OMB for approval as required under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). When ready, the requirements and burden will also be made available for public review and comment under the standard non-rule PRA process which includes the publication of 60- and 30-day **Federal Register** notices. The CMS ID number for that collection of information request is CMS–10854 (OMB control number 0938–TBD).

Since this would be a new collection of information request, the OMB control number has yet to be determined (TBD) but will be issued by OMB upon their approval of the 30-day version of this new collection of information request.

[56] Available at *https://resdac.org/articles/cms-cell-size-suppression-policy.*

IV. Response to Comments

Because of the large number of public comments, we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Analysis

We have examined the impacts of this notice with comment period as required by Executive Order 12866, ''Regulatory Planning and Review''; Executive Order 13132, ''Federalism''; Executive Order 13563, ''Improving Regulation and Regulatory Review''; Executive Order 14192, ''Unleashing Prosperity Through Deregulation''; the Regulatory Flexibility Act (RFA) (Pub. L. 96–354); section 1102(b) of the Social Security Act; and section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this notice with comment period is not subject to the RFA.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice with comment period is not subject to section 1102(b).

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately $193 million. This notice with comment period does not mandate any requirements for State, local, or tribal governments, or for the private sector. Accordingly, the requirements of section 202 of UMRA do not apply.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This notice with comment period does not have a substantial direct effect on State or local governments, preempt States, or otherwise have a Federalism implication.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on April 14, 2026.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–08190 Filed 4–27–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0618]

Proposed Information Collection Activity; Chafee Strengthening Outcomes for Transition to Adulthood Project Overarching Generic (Extension)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families' (ACF) Office of Planning, Research, and Evaluation (OPRE) requests Office of Management and Budget (OMB) approval of a revision of a previously approved overarching generic clearance to collect data on programs serving youth transitioning out of foster care as part of the Chafee Strengthening Outcomes for Transition to Adulthood Project. The generic mechanism will allow ACF to conduct rapid-cycle evaluations that would not otherwise be feasible under the timelines associated with the Paperwork Reduction Act (PRA) of 1995. The purpose of these data collections submitted under the generic will be to inform ACF programming by building evidence about what works to improve outcomes for the target population and to identify innovative learning methods that address common evaluation challenges. Revisions are proposed to focus this generic on a subset of types of requests that had been originally proposed.

DATES: *Comments due June 29, 2026.*

ADDRESSES: In compliance with the requirements of PRA, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing *opreinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: To continue activities begun under the previously approved umbrella generic (*https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202502-0970-044*), OPRE intends to conduct evaluations of the effectiveness of program services and components in improving outcomes for youth and young adults transitioning out of foster care. To address challenges identified in previous studies, the ongoing evaluations use innovative methods tailored to each participating program, including rapid cycle learning techniques that require an iterative approach. Due to the rapid and iterative nature of this work, OPRE requested and received approval in 2023 for a generic clearance to conduct this research. Intended use of the resulting data is to identify practices and program components that have the potential to improve the delivery and/or quality of services administered by human service programs and agencies in the areas of child welfare and independent living services for youth and young adults with foster care experience. Potential data collection efforts include conducting interviews, focus groups,

and surveys with current, past, or potential participants in programs serving youth with foster care experience (*e.g.,* including potential participants who are included in comparison groups).

Under this generic clearance, information is meant to inform ACF activities and may be incorporated into documents or presentations that are made public such as through conference presentations, websites, or social media. The following are some examples of ways in which we may share information resulting from these data collections: Technical assistance (TA) plans, webinars, presentations, infographics, issue briefs/reports, project specific reports, or other documents relevant to the field, such as federal leadership and staff, grantees, local implementing agencies, researchers, and/or training/TA providers. We may also request information for the sole purpose of publication in cases where we are working to create a single source for users (clients, programs, researchers) to find information about resources such as services in their area, TA materials, different types of programs or systems available, or research using ACF data. In sharing findings, we will describe the study methods and limitations regarding generalizability and as a basis for policy.

Following standard OMB requirements, OPRE will submit an individual request for each specific data collection activity under this generic clearance. Each request will include the individual instrument(s), a justification specific to the individual information collection, and any supplementary documents.

Respondents: Current, former, or potential participants in programs serving youth; and young adults with foster care experience.

Annual Burden Estimates

This request will reduce the scope of the previously approved generic to only focus on two types of information collections. This request is for 3 years of approval and burden estimates are calculated to show the total burden over the 3-year period and an average annual burden estimate based on that calculation.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Youth Discussions and Focus Groups	200	2	1.5	600	200
Youth Surveys	1,200	3	0.5	1,800	600
Estimated Total Annual Burden Hours					800

Comments: The Department specifically requests comments on (a) 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; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Title IV–E of the Social Security Act, IV–E § 477(g)(1–2), as amended by the Foster Care Independence Act of 1999.

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–08243 Filed 4–27–26; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0548]

Submission for Office of Management and Budget Review; Tribal Budget and Narrative Justification Template

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is proposing to renew the collection of expenditure estimate forms for the tribal child support program through an optional financial reporting form, Tribal Budget and Narrative Justification Template (Office of Management and Budget #: 0970–0548; expiration date May 31, 2026). Minor changes are proposed. OCSE does not plan to renew either the Word version or the Excel 1115 Waiver version of the Tribal Budget and Narrative Justification Template.

DATES: *Comments due* May 28, 2026.

ADDRESSES: The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202604-0970-007.* You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: To receive child support funding under 45 CFR part 309, tribes and tribal organizations must submit the financial forms described in 45 CFR 309.130(b) and other forms as the Secretary may designate, due no later than August 1 annually. This optional template is designed for tribes operating an approved tribal child support program to use in preparing their annual budget and narrative justification estimates in accordance with the tribal child support enforcement regulations. The optional Tribal Budget and Narrative Justification Template helps improve efficiency and establish uniformity and consistency in the annual budget submission and review process. Tribes may use the Excel template or their own format to submit the required financial information. OCSE has made minor revisions to the Excel template by updating citations and hyperlinks from 45 CFR part 75 to 2 CFR part 200. Other changes include edits to examples in the Excel sample budget to reflect the adoption of 2 CFR part 200 and updated formula errors in

the Excel document. OCSE proposes to discontinue the Word template since it is not used.

Respondents: Tribes and tribal organizations administering a tribal child support program under title IV–D of the Social Security Act.

Annual Burden Estimates

Burden estimates are for all tribes to provide budget information, as required, using either the ACF provided template or their own format.

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Tribal Budget and Narrative Justification	63	1	16	1,008

Authority: 45 CFR 309.

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–08241 Filed 4–27–26; 8:45 am]

BILLING CODE 4184–41–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; Rural Northern Border Outreach Program Performance

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. Comments submitted during the first public review of this ICR will be provided to OMB. 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 May 28, 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: Rural Northern Border Region Outreach Program Performance, OMB No. 0915–xxxx–New.

Abstract: The Rural Northern Border Region Outreach Program (RNBR–OP) is authorized under 42 U.S.C. 254c(e) (Section 330A(e) of the Public Health Service Act) to promote the delivery of health care services to rural underserved populations in Northern Border Regional Commission counties in Maine, New Hampshire, New York, and Vermont. This authority permits HRSA to ''award grants to eligible entities to promote rural health care services outreach by improving and expanding the delivery of health care services to include new and enhanced services in rural areas through community engagement and evidence-based or innovative, evidence-informed models'' (42 U.S.C. 254c(e)).

A 60-day notice published in the **Federal Register** on February 2, 2026, vol. 91, No. 21; pp. 4569–4570. There were no public comments.

Need and Proposed Use of the Information: The purpose of the proposed data collection is to assess RNBR–OP awardees' progress toward meeting RNBR–OP goals. Additionally, HRSA will be able to monitor and assess the impact of the RNBR–OP program, and identify improvements made by RNBR–OP awardees in specific topic areas. RNBR–OP grantees will submit annual reports to HRSA on performance measures covering the following topic areas: (1) capacity/organizational information; (2) workforce training; (3) access/population demographics; (4) direct clinical services; and (5) sustainability.

Likely Respondents: The respondents will be recipients of the RNBR–OP funding.

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
RNBR–OP Performance Measures Report	13	1	13	17	221
Total	13		13		221

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–08212 Filed 4–27–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2026–0001]

Notice of Adjustment of Statewide per Capita Indicator for Recommending a Cost Share Adjustment

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the statewide per capita indicator for recommending cost share adjustments for major disasters declared on or after January 1, 2026, through December 31, 2026 is $189.

DATES: This notice applies to major disasters declared on or after January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Robert Pesapane, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: Pursuant to 44 CFR 206.47, the statewide per capita indicator that is used to recommend an increase of the Federal cost share from seventy-five percent (75%) to not more than ninety percent (90%) of the eligible cost of permanent work under section 406 and emergency work under section 403 and section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is adjusted annually. The adjustment to the indicator is based on the Consumer Price Index for All Urban Consumers published annually by the U.S. Department of Labor. For disasters declared on January 1, 2026, through December 31, 2026, the qualifying indicator is $189 per capita of state or tribal population.

This adjustment is based on an increase of 2.7 percent in the Consumer Price Index for All Urban Consumers for the 12-month period that ended December 2025. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on January 13, 2026.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Karen S. Evans,

Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.

[FR Doc. 2026–08224 Filed 4–27–26; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7106–N–19]

Privacy Act of 1974; System of Records

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of Housing and Urban Development (HUD), is issuing a public notice of its intent to modify the HUD System of Records Notices for the HUD systems of records listed below.

DATES: Comments will be accepted on or before May 28, 2026. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number by one method:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–485–9531.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; Kimberly Morton, Acting Chief Privacy Officer; The Executive Secretariat; 451 7th St. SW, Washington, DC 20410–1000.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Morton, Acting Chief Privacy Officer, 451 7th St. SW, Washington, DC 20410–1000; telephone (804) 822–4802 (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: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a and Executive Order 14243 *Stopping Waste, Fraud, and Abuse by Eliminating Information Silos,* HUD is modifying the Routine Uses applicable to multiple Department systems of records to enhance interagency coordination, program integrity and performance, and financial accountability. This action establishes a uniform Routine Use to allow disclosures and exchange of information maintained in applicable HUD systems of records to Federal and non-Federal entities for the purposes of detecting, preventing, and remediating fraud, waste, abuse, and improper payments and protecting taxpayer funds.

The following routine use shall be added to the end of each routine use section for the systems of records listed below:

System name and No.	**Federal Register**, citation(s)
Single Family Insurance System HUD/HOU–04	88 FR 87450, 81 FR 59235, 64 FR 40032.
Distributive Shares and Refund Subsystem (DSRS) HUD/HOU–03	89 FR 12368, 87 FR 61618, 72 FR 40890.

System name and No.	Federal Register, citation(s)
Single Family Acquired Asset Management System HUD/HOU–01	88 FR 69215, 88 FR 45239, 79 FR 10825.
Single Family Housing Enterprise Data Warehouse. HOU.SF/HUD–05	89 FR 50623, 80 FR 12516.
Ginnie Mae Mortgage-Backed Securities Unclaimed Funds System, HUD/GNMA–01	75 FR 44804.
Enterprise Data Management, HUD/OCIO–002	84 FR 48162, 82 FR 26702.
HUD Enforcement Management System (HEMS), HUD/FHEO–02	88 FR 86668, 79 FR 62658.
Active Partners Performance System (APPS), HUD/MFH–01	89 FR 17506, 81 FR 50000.
Office of Native American Programs—Loan Origination System or ONAP–LOS	82 FR 41044.
Physical Assessment Sub-System (PASS–R), HUD/PIH–REAC 3	88 FR7752, 66 FR 28192.
Personnel Security Integrated System for Tracking, HUD/OCHCO–02	87 FR 61621, 83 FR 22094.
Enterprise-Wide Operational Data Store (EWODS), HUD/Ginnie Mae/TN.01	77 FR 72368.

SECURITY CLASSIFICATION:

The applicable security classification is identified in each notice.

SYSTEM LOCATION:

The applicable system location is identified in each notice.

SYSTEM MANAGER(S):

The applicable system manager(s) is identified in each notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom HUD has a contract, service agreement, grant, cooperative agreement, computer matching agreement, or other agreement for the purpose of: (1) Detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (3) for the purpose of establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefits programs or recouping payments or delinquent debts under such Federal benefits programs; (4) detection of fraud, waste, and abuse by individuals in their operations and programs. Records under this routine use may be disclosed only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds or to prevent and recover improper payments for services rendered under programs of HUD or of those Federal agencies and non-Federal entities to which HUD provides information under this routine use.

HISTORY:

See system name and number above.

Kimberly Morton,

Acting Chief Privacy Officer, Office of Administration.

[FR Doc. 2026–08217 Filed 4–27–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7106–N–20]

Privacy Act of 1974; System of Records

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of Housing and Urban Development (HUD), is issuing a public notice of its intent to modify the HUD System of Records Notices for the HUD systems of records listed below.

DATES: Comments will be accepted on or before May 28, 2026. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number by one method:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–485–9531.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; Kimberly Morton, Acting Chief Privacy Officer; The Executive Secretariat; 451 7th St. SW, Washington, DC 20410–1000.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Morton, Acting Chief Privacy Officer, 451 7th St. SW, Washington, DC 20410–1000; telephone (804) 822–4801 (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: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, HUD is modifying the Routine Uses applicable to multiple Department systems of records. This action establishes a uniform Routine Use to allow disclosures and exchange of information maintained in applicable HUD systems of records to Federal, State, local, tribal, or other governmental agencies for the purposes of investigating, enforcing, and prosecuting the violations of criminal and civil laws.

The following routine use shall be added to the end of each routine use section for the systems of records listed below:

System name and No.	**Federal Register**, citation(s)
Inventory Management System, Public and Indian Housing Information Center (IMS/PIC) and Housing Information Portal (HIP), HUD/PIH–01.	89 FR 1121, 88 FR 17004.
Enterprise Data Management, HUD/OCIO–002	84 FR 48162, 82 FR 26702.
Office of Native American Programs—Loan Origination System or ONAP–LOS	82 FR 41044.
Physical Assessment Sub-System (PASS–R), HUD/PIH–REAC 3	88 FR7752, 66 FR 28192.
Enterprise-Wide Operational Data Store (EWODS), HUD/Ginnie Mae/TN.01	77 FR 72368.

SECURITY CLASSIFICATION:

The applicable security classification is identified in each notice.

SYSTEM LOCATION:

The applicable system location is identified in each notice.

SYSTEM MANAGER(S):

The applicable system manager(s) is identified in each notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To appropriate Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforcement of civil or criminal laws, when such records, either alone or in conjunction with other information, indicate a violation or potential violation of law.

HISTORY:

See system name and number above.

Kimberly Morton,

Acting Chief Privacy Officer, Office of Administration.

[FR Doc. 2026–08216 Filed 4–27–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7106–N–21]

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Housing and Urban Development (HUD), Office of the Chief Financial Officer (OCFO), is modifying a system of records titled, ''Financial Data Mart.'' Financial Data Mart (FDM) is a warehouse of data extracted from various HUD systems and is supported by several query tools for improved financial and program data reporting. FDM facilitates viewing, understanding and reporting of financial data. FDM is the primary reporting tool used to generate internal ad-hoc reports, scheduled event-driven reports, and queries. This system of records is being revised to include modifications to existing routine uses and addition of three new routine uses. All SORN modifications are outlined in the SORN ''Supplementary Information'' section.

DATES: Comments will be accepted on or before May 28, 2026. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by the docket number or by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; Kimberly Morton, Acting Chief Privacy Officer; The Office of Executive Secretariat; 451 7th Street SW, Room 10139; Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Morton, Acting Chief Privacy Officer, 451 7th Street SW, Room 10139, Washington, DC 20410–0001; telephone (804) 822–4801 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs* .

SUPPLEMENTARY INFORMATION: HUD updates the system of records notice (SORN) for the Financial Data Mart (FDM) to reflect the following substantive changes:

- *Routine Uses:* Updated and reordered existing routine uses to align with HUD standard language. No substantive changes were made to existing routine uses.
- *New Routine Uses:* Added three new Routine Uses as follows:
  - Routine Use (8) Authorizes disclosure to support statistical analysis and research with the purpose of the system.
  - Routine Use (11) Authorizes disclosure to the Department of the Treasury pursuant to E.O. 14249 and OMB Memorandum M–25–32 for identifying, preventing, or recouping fraud and improper payments, as permitted by law.
  - Routine Use (12) Authorizes disclosure necessary to support the disbursement of funds.
- *Policies and Practices for Retention and Disposal of Records Section:* Updated this section to clarify language; no changes were made to the approved records schedule or retention periods.

SYSTEM NAME AND NUMBER:

Financial Data Mart (FDM), HUD/OCFO–04.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

HUD Headquarters, 451 7th Street SW, Washington, DC 20410–1000 and National Center for Critical Information Processing and Storage (NCCIPS), Stennis Space Center, MS 39529–6000. The backup data center is at Mid-Atlantic Data Center in Clarksville, VA 23927–3201.

SYSTEM MANAGER(S):

Kate Darling, Assistant Chief Financial Officer for Systems, Office of the Chief Financial Officer, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room

3100, Washington, DC 20410–0001; telephone (202) 402–3912.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511; The Chief Financial Officers Act of 1990 (31 U.S.C. 901, *et seq.*); Executive Order 9397, as amended by Executive Order 13478; Housing and Community Development Act of 1987, 42 U.S.C. 3543.

PURPOSES OF THE SYSTEM:

Financial Data Mart (FDM) is a centralized repository of data extracted from a variety of HUD's financial systems, supported by query tools to enhance financial and program data reporting. FDM is designed to facilitate viewing, understanding, and reporting of financial data. FDM serves as the primary tool for generating internal ad-hoc reports, scheduled event-driven reports, and queries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public, federal employees, contractors, third-party vendors, and recipients of grants, subsidies, or loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, Social Security Numbers (SSNs), Taxpayer-IDs (which may include SSNs for sole-proprietors), Home/business addresses, Financial Information (*e.g.,* bank account, and routing numbers), Email addresses, Salaries, and User IDs.

RECORD SOURCE CATEGORIES:

FDM receives records from other HUD information systems such as HUD Central Accounting and Program Systems (HUDCAPS), Loan Accounting System (LAS), Line of Credit Control System (LOCCS), HUD Integrated Human Resources and Training System (HIHRTS), Geocoding Service Center (GSC), Office 365 Multi-Tenant Software, and non-Personally Identifiable Information (non-PII) from Integrated Real Estate Management System (IREMS). FDM also receives records from external sources, such as the General Services Administration, System for Award Management (SAM) and the Department of Treasury, Administrative Resource Center (ARC)'s Oracle Federal Financials.

ROUTINE USES MAINTINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(1) To a congressional office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual.

(2) To appropriate agencies, entities, and persons when: (1) HUD suspects or has confirmed that there has been a breach of the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(3) To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(4) To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing counsel or witnesses or jurors in the course of civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; when HUD determines that use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(5) To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(6) To appropriate Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforcement of civil or criminal laws when such records, either alone or in conjunction with other information, indicate a violation or potential violation of law.

(7) To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom HUD has a contract, service agreement, grant, cooperative agreement, computer matching agreement, or other agreement for the purpose of: (I) Detection, prevention, and recovery of improper payments; (II) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (III) for the purpose of establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefits programs or recouping payments or delinquent debts under such Federal benefits programs; (IV) detection of fraud, waste, and abuse by individuals in their operations and programs. Records under this routine use may be disclosed only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds or to prevent and recover improper payments for services rendered under programs of HUD or of those Federal agencies and non-Federal entities to which HUD provides information under this routine use.

(8) To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or other agreement for the purposes of statistical analysis and

research in support of program operations, management, performance monitoring, evaluation, risk management, and policy development, or to otherwise support the Department's mission. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. The entity receiving information under this routine use may not further disclose the records in an identifiable form.

(9) To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

(10) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(11) To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for,or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

(12) To the U.S. Treasury for transactions such as disbursements of funds and related adjustments.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic only.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Name, Social Security Number, Taxpayer ID, Email Address, and User-ID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

General Records Schedule 1:1; Financial Management and Reporting Records. Destroy 6 years after final payment or cancellation, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All HUD employees have undergone background investigations. HUD buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures. Access is restricted to authorized personnel or contractors whose responsibilities require access. System users must take the mandatory security awareness training annually as mandated by the Federal Information Security Management Act (FISMA). Users must also sign a Rules of Behavior form certifying that they agree to comply with the requirements before they are granted access to the system. FDM resides in the HUD Office of Chief Information Officer (OCIO) Local Area Network (LAN). The HUD OCIO Infrastructure and Operations Office (IOO) secure the Data Centers where the LAN resides. FDM sends and receives data through HUD SFTP (Security File Transfer Protocol), which encrypts the data in the database. All users authenticate to the HUD LAN with PIV cards before they can access FDM. OCFO limits access to records that contain PII data on a need-to-know basis, user recertification is performed, audit logs are reviewed, security assessments are performed, and background checks are performed prior to granting access to privileged roles. Not all employees and contractors have access to the vendor table that includes the PII. Supervisors determine and authorize FDM access for their employees, and OCFO checks their suitability. The majority of FDM users are read-only and cannot enter data into FDM. A system user recertification is conducted to ensure each FDM user requires access to the system.

RECORD ACCESS PROCEDURES:

Individuals requesting records of themselves should address written inquiries to the Department of Housing Urban and Development 451 7th Street SW, Washington, DC 20410–0001. For verification, individuals should provide their full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

CONTESTING RECORD PROCEDURES:

The HUD rule for contesting the content of any record pertaining to the individual by the individual concerned is published in 24 CFR 16.8 or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals requesting notification of records of themselves should address written inquiries to the Department of Housing Urban Development, 451 7th Street SW, Washington, DC 20410–0001. For verification purposes, individuals should provide their full name, office or organization where assigned, if applicable, and current address and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Docket No. FR–7104–N–08, 90 FR 36176, August 1, 2025.

Kimberly Morton,

Acting Chief Privacy Officer, Office of Administration.

[FR Doc. 2026–08218 Filed 4–27–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[A2407–014–004–065516; #O2412–014–004–047181.1; LLHQ330000]

National Environmental Policy Act Implementing Procedures for the Bureau of Land Management

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice announces a revision to the National Environmental Policy Act (NEPA) implementing procedures for the Bureau of Land Management (BLM) at DOI Handbook of NEPA Implementing Procedures (DOI NEPA Handbook) that supplements Chapter 1 of Part 516 of the Department of the Interior's (Department or DOI) Departmental Manual (516 DM 1). The revision adds a new categorical exclusion (CE) for geothermal resource exploration operations to the *DOI Handbook of NEPA Implementing Procedures, Appendix 2: Bureau Categorical Exclusions.*

DATES: The CE is effective April 28, 2026.

ADDRESSES: The new CE will be found at the web address for the DOI NEPA Handbook: *http://www.doi.gov/elips/.* The ''Substantiation of Proposed National Environmental Policy Act Categorical Exclusion for Geothermal

Resource Exploration Operations'' (Substantiation Report) for the CE is available at the BLM's ePlanning site: *http://eplanning.blm.gov/eplanning-ui/project/2034945/510.*

FOR FURTHER INFORMATION CONTACT: Amelia Savage, Senior Planning and Environmental Specialist Decision Support, Planning, and NEPA, at (303) 239–3635, or *alsavage@blm.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:

I. Background

The Department published the proposed CE and Substantiation Report for geothermal resource exploration operations on January 17, 2025, for a 30-day public comment period. Refer to the **Federal Register** notice (90 FR 5981) proposing the CE for more information regarding the background and rationale for establishment of the CE. This notice notifies the public of the Department's establishment of the Geothermal Exploration Operations (GEO) CE and includes the BLM's responses to comments from the public on the proposed CE. The BLM has made editorial edits to the CE text as explained in this notice. These edits do not change the scope of the CE as proposed.

Geothermal energy offers baseload energy as geothermal power plants use heat energy found in rock formations containing hot water or steam below the Earth's surface to turn a turbine and generate electrical power. Additionally, geothermal energy is a steady source of electricity, generating energy 24 hours a day, regardless of changing weather patterns, as opposed to intermittent sources of power. Geothermal power plants also have one of the smallest amounts of surface disturbance relative to electricity produced, with a generation-weighted average of 0.34 acre/Gigawatt hour (GWh). Currently, approximately seventy (~70) percent (%) of geothermal installed capacity in the United States includes federal resources. For these reasons, the BLM's Geothermal Energy Program is a critical component to the efforts of the administration and various western states to advance the nation's energy portfolio.

Further, this CE advances President Trump's Executive Order 14154, *Unleashing American Energy,* and Executive Order 14156, *Declaring a National Energy Emergency,* and Secretary Burgum's ensuing Secretary's Order 3417, *Addressing the National Energy Emergency,* and Secretary's Order 3418, *Unleashing American Energy.*

The Department proposed the CE for use by the BLM to support approval of a notice of intent to conduct geothermal resource exploration operations (NOI) to streamline project authorization at the exploration operations phase (see definition at 43 CFR 3200.1) to simplify and focus the NEPA process. This increased efficiency will serve to expedite authorization of geothermal exploration activities that could be vital to the expansion of geothermal development on BLM managed lands.

NEPA, 42 U.S.C. 4321 *et seq.,* requires Federal agencies to consider the environmental effects of their proposed actions in their decision-making processes and inform and engage the public in that process. To comply with NEPA, agencies determine the appropriate level of review of any major Federal action—an environmental impact statement (EIS), environmental assessment (EA), or a categorical exclusion (CE). See generally, 42 U.S.C. 4336 (b); 43 CFR part 46; DOI NEPA Handbook section 1.2 (2025). Where it is reasonably foreseeable that significant environmental effects are likely, the agency must prepare an EIS and document its decision. See generally, 42 U.S.C. 4336 (b)(1); DOI NEPA Handbook section 1.2(a)(5)(ii). Where appropriate, an agency may prepare an environmental assessment, and if it reaches a finding of no significant impact (FONSI), it need not prepare an EIS. See generally, 42 U.S.C. 4336(b)(2); DOI NEPA Handbook section 1.6; section 1.2(a)(4).

Under NEPA, the Department recently revised its 43 CFR part 46 regulations and its procedural and interpretive guidance (see 90 FR 29498, July 3, 2025) (explaining the Department's decision to move most of its NEPA procedures to the DOI NEPA Handbook). Before publishing these procedures, the Department and the BLM consulted with CEQ to ensure the procedures conform to NEPA and applicable regulations. Consistent with those revisions, the Department may establish CEs—categories of actions that the agency has determined normally do not have a significant effect on the human environment—in its NEPA procedures. See 42 U.S.C. 4336(a)(2); 43 CFR 46.205. If the BLM determines that a CE covers a proposed action, it then evaluates the proposed action for extraordinary circumstances, which are factors or circumstances that indicate a normally categorically excluded action may have a significant effect. 43 CFR 46.205, 46.215. If the BLM cannot categorically exclude the proposed action following review for extraordinary circumstances, it will prepare an EA or EIS, as appropriate, before issuing any decision to authorize the action. 43 CFR 46.205(c); 42 U.S.C. 4336(b). For establishing a CE, the BLM developed a written record containing information sufficient to substantiate its determination that the category of actions does not have a significant effect on the human environment. This substantiation and the establishment of the CE is made publicly available by publishing this notice in the **Federal Register**. See 43 CFR 46.205(h).

In developing the GEO CE, the Department and BLM consulted with the Council on Environmental Quality (CEQ) in accordance with 42 U.S.C. 4332(2)(B) and its past guidance to agencies. The BLM also provided an opportunity for public review of the proposed CE and the Substantiation Report (See 90 FR 5981, January 17, 2025).

II. Categorical Exclusion as Proposed

The text of the proposed CE, as provided in the January 17, 2025, **Federal Register** notice, was as follows:

Approval of a notice of intent to conduct geothermal resource exploration operations that:

- Does not include the direct testing of geothermal resources or resource utilization;
- Does not exceed 10 acres of total (contiguous or noncontiguous) surface disturbance;
- Requires reclamation of surface disturbances when their intended purpose has been fulfilled;
- Requires reclamation of temporary routes when their intended purpose(s) has been fulfilled, unless through a separate review and decision-making process the BLM incorporates and appropriately designates the route as part of its transportation system.
- Does not make a temporary route available for public use unless the temporary route is specifically intended to accommodate public use;
- Requires temporary routes to be constructed or used so as to allow for the reclamation, by artificial or natural means, of vegetative cover on the temporary route and areas where the vegetative cover was disturbed by the construction or use of the route, and requires such treatment to be designed

to reestablish vegetative cover as soon as possible, but at most within 10 years after approved reclamation commences; and,

• Includes design elements to protect resources and resource uses consistent with the applicable resource management plan, laws, regulations, and any lease terms (as applicable).

III. Comments on the Proposed CE

The BLM received 10 comment letters during the 30-day public comment period on the proposed CE. Comments were submitted by State agencies, interest groups, non-profit organizations, and private citizens. The BLM received comments both in support of and in opposition to the proposed CE. Some comments were beyond the scope of the proposed CE, such as a recommendation for the BLM to update the 2008 ''Programmatic Environmental Impact Statement for Geothermal Leasing in the Western United States.''

The BLM considered all comments to date and responds in this notice to all four substantive issues raised in the public comments. The BLM appreciates the interest and participation of all respondents. The BLM, where appropriate, grouped together similar or related comments, and responds to the comments as follows:

Comment 1—Support for the GEO CE: At least nine commenters expressed support for establishing the CE, stating that it would substantially reduce permitting timelines for geothermal energy authorizations and advance the responsible development of clean and reliable energy on public lands while keeping in place strong commitments to environmental stewardship. In addition, commenters noted that the availability of the CE for the BLM's use could help the BLM to expedite approval of new geothermal projects and promote the realization of their associated economic benefits while allowing the BLM's staff to focus on other proposals that may have a significant environmental effect.

Response 1: The BLM will continue to conduct the appropriate level of NEPA review for proposed Federal actions, including, where appropriate, reliance on available CEs, and public engagement, as necessary, and consider potential adverse effects of proposed activities through the NEPA process.

Comment 2—Suggested revisions to the scope of covered activities: At least one commenter expressed concern that the scope of covered exploration activities under the proposed CE is too broad and suggested that the BLM restrict use of the proposed CE to existing types of geothermal resource exploration activities and not allow reliance on the CE for novel or experimental geothermal resource exploration methods yet to be developed.

Response 2: Within the Substantiation Report, the BLM reviewed different types of exploration project requirements, including well pads, well diameter, and access road requirements for geothermal resource exploration projects. For example, as described within the Substantiation Report, the 10 acres of disturbance provides flexibility to address the various types of exploration project requirements considered within the 28 projects analyzed in the EAs reviewed, such as, construction of temporary roads for site access, construction of well pads, and drilling of temperature gradient wells or core holes. The commenter did not identify any specific kind of ''novel or experimental'' geothermal resource exploration activity that the BLM did not adequately consider in developing this CE.

Moreover, before relying on the CE to approve any proposed action, the BLM must consider extraordinary circumstances (43 CFR 46.215) including whether a project would have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. This review would be documented and included in the information posted on the BLM's NEPA register. If the responsible official cannot rely on the CE because of extraordinary circumstances, the responsible official will prepare an EA or EIS, consistent with 43 CFR 46.205(c).

Comment 3—Potential effects to wildlife resources: At least one commenter expressed concern that geothermal resource exploration can affect wildlife and recommended that the BLM incorporate protections for species into the CE text.

Response 3: The BLM's NOI review process includes several layers of protection, which ensure that exploration projects will not significantly impact wildlife, regardless of the level of NEPA review. Actions that are proposed to take place on BLM-managed lands must be reviewed for conformance with the applicable BLM resource management plan (RMP) as part of the BLM's compliance with the Federal Land Policy and Management Act, as amended, 43 U.S.C. 1701 *et seq.,* and its implementing regulations (43 CFR 1610.5–3). The BLM ensures that design elements are included in NOI approvals for conformance with the applicable RMP, lease terms (as applicable), and other relevant requirements. BLM professionals review each proposed action for potential resource conflicts and incorporate appropriate design elements into any approval.

BLM's Substantiation Report and project EA summaries illustrate these considerations. Geothermal resource exploration projects may impact wildlife resources (*e.g.,* migratory birds, bald and golden eagles, raptors, wild horses and burros, mule deer, small mammals and reptiles). Due to the non-contiguous nature of disturbed acreage, one common environmental impact consideration is the potential for species displacement due to habitat fragmentation, including edge effects associated with dispersed surface disturbance. Other common effects are loss of habitat from vegetation removal, and mortality of small, less mobile mammals and reptiles due to increased vehicle traffic (Levine et al. 2018; Substantiation Report, appendix A). However, in the 28 EAs/FONSIs analyzed, BLM made findings that population-level effects to species were not expected to occur; effects of habitat fragmentation due to removal of vegetation and construction of drill sites and new roads in areas used by wildlife were short-term and negligible because the project size was small in comparison to the amount of surrounding lands with suitable habitat. Moreover, common design elements ensured restoration of disturbed habitat.

The BLM reviewed published reports from the National Renewable Energy Laboratory and other reliable sources analyzing potential environmental effects and associated project design elements implemented for protection of wildlife and resources in geothermal resource exploration projects as a comparison to the effects analyzed within the EAs selected for analysis.

Further, before relying on the CE to approve any proposed action, the BLM must consider extraordinary circumstances (43 CFR 46.215), which include consideration of effects on, among others: natural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; wetlands; floodplains; national monuments; migratory birds; other ecologically significant or critical areas; listed or proposed species or critical habitat; and contribution to the introduction, continued existence, or spread of invasive plants or non-native invasive species. This review would be documented and included in the information posted on the BLM's NEPA register.

BLM contacted the field offices and relevant staff that had prepared each of the 48 EAs and requested information as to (1) whether the projects had been completed or at least substantially implemented, (2) whether project activities had resulted in any unanticipated effects (*e.g.,* effects not contemplated, discussed), and (3) if unanticipated effects had occurred, what they were. For each of the 48 EAs included for analysis, BLM staff positively confirmed that no unanticipated effects occurred for any of the studied projects.

If the responsible official cannot rely on the CE to support a decision on a particular proposed action due to extraordinary circumstances, the responsible official will prepare an EA or EIS, consistent with 43 CFR 46.205(c) and 42 U.S.C. 4336(b). Finally, reliance on a CE constitutes compliance only with NEPA; the BLM must separately comply with requirements under any other applicable law, such as the Endangered Species Act.

Comment 4—Suggested revisions to allowable disturbed acreage: At least one commenter suggested that the BLM expand the acreage amount of allowable surface disturbance.

Response 4: To support the development of the CE, in its Substantiation Report, the BLM examined the range of surface disturbance types and extent in 28 geothermal projects analyzed in EAs that all supported FONSIs, and that were completed between 2003 and 2019, to identify potential effects resulting from the kinds of activities normally included in NOIs, as outlined in the Department's regulations at 43 CFR part 3200, subpart 3250. As discussed in the Substantiation Report, the BLM reviewed these EAs and associated FONSIs to determine the scope of environmental effects anticipated to result from the exploration operations and compared the various disturbed acreage statistics. The size and scale of geothermal resource exploration projects evaluated in those documents were the basis of the surface disturbance limitations chosen for the CE. This analysis together with BLM's consultations with CEQ and the Department's Office of Environmental Policy and Compliance support the 10-acre surface disturbance limitation. Therefore, the BLM declines to modify the allowable disturbed acreage.

IV. Additional Clarifying Changes

While considering the comments and recommendations the BLM received during the public comment period on the proposed CE revisions, the BLM incorporated three changes to the CE text proposed in January 2025. These changes include updating the format from a bulletized list to an alphabetized list; to add ''or resource production'' to better track the definition of geothermal exploration operations (43 CFR 3200.1); and to add '', pursuant to 43 CFR part 3200 subpart 3250,'' before ''that'' in the main CE text to qualify the regulations and define the scope of activities to which the CE pertains.

Categorical Exclusion Justification

The BLM finds that the category of actions described in the CE (below) does not normally have a significant effect on the human environment. This finding is based on the analysis of the proposal to establish the CE in the BLM's Substantiation Report and supporting record documents. The Substantiation Report explains that the restrictions on the proposed CE limit surface disturbance and access road construction and the required design elements incorporated into the NOI approvals and enforced by conditions of approval, as needed, are effective to address environmental effects. Consequently, the BLM concludes that the category of actions included in this CE does not normally result in significant environmental effects.

The Substantiation Report summarizes the review of 28 geothermal EAs that supported FONSIs, 20 similar oil and gas drilling project EAs that also supported FONSIs, as well as benchmarking similar CEs supporting geophysical investigations that are in use by other agencies by analyzing 6 U.S. Forest Service and 1 Department of the Navy project to demonstrate the finding that actions under the revised CE would not normally result in significant effects to the human environment. The Substantiation Report includes evaluation of the BLM NEPA analyses and available scientific research on the effects of actions similar to those included in the new CE over time and over different geographic areas and following consideration of comments from the public.

The Department and the BLM consulted with CEQ on the proposed and final CE. CEQ found the CE to comply with NEPA and agreed that the CE is appropriate to establish. Therefore, the Department adds this CE to the DOI NEPA Handbook, Appendix 2.

When applying this CE, responsible officials within the BLM will evaluate proposed actions covered by the CE to determine whether any extraordinary circumstances are present in accordance with the requirements in the Department's NEPA implementing procedures at 43 CFR 46.205 and 46.215. This review would be documented and included in the information posted on the BLM's NEPA register. If the responsible official cannot rely on this CE to support a decision to authorize geothermal resource exploration operation activities due to extraordinary circumstances, the responsible official will prepare an EA or EIS before doing so, consistent with 43 CFR 46.205(c) and 42 U.S.C. 4336(b). When applying this CE, the BLM will document its reliance on the CE and publish the documentation on the BLM NEPA website.

V. Text Added to the U.S. Department of the Interior Handbook of NEPA Implementing Procedures, Appendix 2: Bureau Categorical Exclusions

The *DOI Handbook of NEPA Implementing Procedures, Appendix 2: Bureau Categorical Exclusions* includes the following language:

* * * * *

Bureau of Land Management

11.9 Actions Eligible for a Categorical Exclusion (CE)

* * * * *

B. Oil, Gas, and Geothermal Energy

* * * * *

(8) Approval of a notice of intent to conduct geothermal resource exploration operations, pursuant to 43 CFR part 3200 subpart 3250, that:

(a) Does not include the direct testing of geothermal resources or resource production or utilization;

(b) Does not exceed 10 acres of total (contiguous or noncontiguous) surface disturbance;

(c) Requires reclamation of surface disturbances when their intended purpose has been fulfilled;

(d) Requires reclamation of temporary routes when their intended purpose(s) has been fulfilled, unless through a separate review and decision-making process the BLM incorporates and appropriately designates the route as part of its transportation system.

(e) Does not make a temporary route available for public use unless the temporary route is specifically intended to accommodate public use;

(f) Requires temporary routes to be constructed or used so as to allow for the reclamation, by artificial or natural means, of vegetative cover on the temporary route and areas where the vegetative cover was disturbed by the construction or use of the route, and requires such treatment to be designed to reestablish vegetative cover as soon as possible, but at most within 10 years after approved reclamation commences; and,

(g) Includes design elements to protect resources and resource uses consistent with the applicable resource management plan,

laws, regulations, and any lease terms (as applicable).

* * * * *

(Authority: NEPA, as amended (42 U.S.C. 4321 *et seq.*))

Stephen G. Tryon,

Director, Director, Office of Environmental Policy and Compliance.

[FR Doc. 2026–08235 Filed 4–27–26; 8:45 am]

BILLING CODE 4331–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, #O2509–014–004–125222]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Permits for Recreation on Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 28, 2026.

ADDRESSES: Written comments and recommendations for this information collection request (ICR) should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Josh Travers by email at *jtravers@blm.gov,* or by telephone at (970) 256–4915. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on new, proposed, revised and continuing collections of information. This helps the BLM assess impacts of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BLM information collection requirements and ensure requested data are provided in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 15, 2025 (90 FR 44393). No comments were received in response to that notice.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting the public and other Federal agencies to comment on the proposed ICR described below. The BLM is especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including 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 submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BLM is required to manage special recreation permits and individual use of special areas as defined in section 802 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801, as amended by section 311 of the EXPLORE Act). The BLM collects the information on the special recreation application to assess, evaluate, and authorize (permit) activities proposed to be conducted on public land. This OMB control number is currently scheduled to expire on June 30, 2026. The BLM request that OMB renew this OMB Control Number for an additional three (3) years.

Title of Collection: Permits for Recreation on Public Lands (43 CFR part 2930).

OMB Control Number: 1004–0119.

Form Number: 2930–001—Special Recreation Application.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for recreational use of public lands managed by the BLM.

Total Estimated Number of Annual Respondents: 1,400.

Total Estimated Number of Annual Responses: 1,400.

Estimated Completion Time per Response: 4 hours.

Total Estimated Number of Annual Burden Hours: 5,600.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

The authority for this action is the PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin King,

Information Collection Clearance Officer.

[FR Doc. 2026–08229 Filed 4–27–26; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1413]

Certain Wireless Front-End Modules and Devices Containing the Same; Notice of a Commission Determination To Grant a Joint Motion To Terminate the Investigation Based on a Stipulation for Dismissal; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the ''Commission'') has determined to grant a joint motion to terminate the investigation based on a stipulation regarding dismissal. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. 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: On August 22, 2024, the Commission instituted this investigation pursuant to section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337) (''section 337''), based on a complaint filed on behalf of complainants Skyworks Solutions, Inc. of Irvine, California; Skyworks Solutions Canada, Inc. of Ottawa, Canada; and Skyworks Global Pte. Ltd. of Singapore (collectively, ''Skyworks''). 89 FR 67969–70 (Aug. 22, 2024). The complaint, as supplemented, alleges violations of section 337 (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, or sale within the United States after importation of certain wireless front-end modules and devices containing the same by reason of infringement of certain claims of U.S. Patent Nos. 8,717,101 (''the '101 patent''); 9,917,563 (''the '563 patent''); 7,409,200 (''the '200 patent''); 9,450,579 (''the '579 patent''); and 9,148,194 (''the '194 patent''). *Id.* The notice of investigation names the following respondents: (1) Kangxi Communication Technologies (Shanghai) Co., Ltd. of Shanghai, China and Grand Chip Labs, Inc. of Tustin, California (collectively, ''KCT''); (2) D-Link Corporation of Taipei, Taiwan and D-Link Systems Inc. of Irvine, California (collectively, ''D-Link''); and (3) Ruijie Networks Co., Ltd. (''Ruijie'') of Fuzhou, China. *Id.* The Office of Unfair Import Investigations (''OUII'') is also a party to the investigation. *Id.*

The Commission previously terminated the '200, '579, and '194 patents, as well as claims 17, 18, and 20 of the '101 patent, from the investigation based on the withdrawal of the complaint as to those patents and claims. Order No. 13 (Nov. 8, 2024), *unreviewed by* Comm'n Notice (Dec. 10, 2024); Order No. 17 (Dec. 31, 2024), *unreviewed by* Comm'n Notice (Jan. 27, 2025); Order No. 25 (Feb. 13, 2025), *unreviewed by* Comm'n Notice (Feb. 25, 2025); Order No. 32 (Mar. 21, 2025), *unreviewed by* Comm'n Notice (Apr. 4, 2025); Order No. 54 (July 30, 2025), *unreviewed by* Comm'n Notice (Aug. 14, 2025). Claims 14 and 17 of the '563 patent and claims 1, 2, 10, 21, and 22 of the '101 patent remain asserted in this investigation.

On April 11, 2025, the Commission terminated the investigation as to the D-Link respondents based on entry of a consent order stipulation and consent orders. Order No. 34 (Mar. 26, 2025), *unreviewed by* Comm'n Notice (Apr. 11, 2025).

On April 4, 2025, Complainants submitted a letter brief requesting monetary and non-monetary sanctions against KCT. On April 8, 2025, KCT and OUII filed responses to Complainants' request for sanctions.

On January 23, 2026, the presiding Administrative Law Judge (''ALJ'') issued Order No. 67 granting in part Complainants' request for sanctions against KCT. Specifically, the ALJ denied Complainants' request for non-monetary sanctions pursuant to Commission Rule 210.33(b) (19 CFR 210.33(b)) but granted certain monetary sanctions pursuant to Commission Rule 210.33(c) (19 CFR 210.33(c)).

Also on January 23, 2026, the ALJ issued a final initial determination (''FID'') finding no violation of section 337. Specifically, the FID finds no infringement of the remaining asserted claims. The FID also finds that the asserted claims are not invalid for lack of written description or enablement. The FID further finds that the domestic industry requirement is satisfied with respect to both the '563 and '101 patents. The FID further includes a recommended determination (''RD'') recommending, should the Commission find a violation of section 337, that the Commission issue a general or limited exclusion order and cease and desist orders against KCT and Ruijie.

On February 6, 2026, Complainant petitioned for Commission review of the FID. On the same day, Respondents and OUII filed contingent petitions for Commission review of the FID. Additionally, KCT and OUII petitioned for review of Order No. 67. On February 13 and 17, 2026, the parties filed responses to each other's petitions.

On February 24, 2026, the parties filed statements on the public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4). The Commission did not receive any submission in response to its post-RD **Federal Register** notice. *See* 91 FR 3927–28 (Jan. 29, 2026).

On April 17, 2026, Complainants and the remaining respondents (*i.e.,* KCT and Ruijie) filed a joint motion to terminate the investigation (''Mot.'') pursuant to Commission Rule 210.21(a)(2) and (b) (19 CFR 210.21(a)(2), (b)) based on a stipulation regarding dismissal. The joint motion states that OUII does not oppose the motion. Mot. at 2. The joint motion attaches a joint stipulation regarding dismissal setting forth the agreement between the Complainants, KCT, and Ruijie. *Id.,* Ex. 1. The joint motion also states that ''[a]part from the attached stipulation, there are presently no agreements, written or oral, express or implied between [Complainants, KCT, and Ruijie] concerning the subject matter of the Investigation.'' *Id.* at 1.

Having examined the record of this investigation, including the FID and the parties' submissions, the Commission has determined to grant the joint motion to terminate the investigation based on the parties' stipulation for dismissal. The Commission finds that the joint motion complies with Commission Rule 210.21(b). The Commission also finds that the joint motion complies with Commission Rule 210.50(b) (19 CFR 210.50(b)) as there is no evidence that termination of the investigation will adversely affect the public interest, including with respect to the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Rather, the public interest favors terminating the investigation to conserve public and private resources.

The investigation is hereby terminated.

The Commission's vote for this determination took place on April 23, 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: April 24, 2026.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2026–08213 Filed 4–27–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the Federal Bureau of Investigation's (FBI) Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA). This meeting announcement is being published as required by Section 10 of the FACA.

DATES: The APB will meet in open session from 8:30 a.m. until 5:00 p.m. on June 03–04, 2026.

ADDRESSES: The meeting will take place at the Hilton New Orleans Riverside Hotel, 2 Poydras Street, New Orleans, LA 70130; telephone: 504–561–0500. The CJIS Division is offering a blended participation option that allows individuals to participate in person and additional individuals to participate via a telephone bridge line. The public will be permitted to provide comments and/or questions related to matters of the APB prior to the meeting. Please see details in the supplemental information.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to the Advisory Process Management Office, Law Enforcement Engagement and Data Sharing Section; 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; email: *agmu@leo.gov;* telephone: 304–625–2767.

SUPPLEMENTARY INFORMATION: The FBI CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Law Enforcement Enterprise Portal, National Crime Information Center, Next Generation Identification, National Instant Criminal Background Check System, National Data Exchange System, and Uniform Crime Reporting.

The meeting will be conducted with a blended participation option. The public may participate as follows: Via phone bridge number to participate in a listen-only mode or in person, which are required to check-in at the meeting registration desk.

Registrations will be taken via email to *agmu@leo.gov.* Information regarding the phone access will be provided prior to the meeting to all registered individuals. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Designated Federal Officer (DFO).

Any member of the public may file a written statement with the APB. Written comments shall be focused on the APB's issues under discussion and may not be repetitive of previously submitted written statements. Written comments should be provided to Mr. Nicky J. Megna, DFO, at least seven (7) days in advance of the meeting so the comments may be made available to the APB members for their consideration prior to the meeting.

Individuals requiring special accommodations should contact Mr. Megna by no later than May 27, 2026. Personal registration information will be made publicly available through the minutes for the meeting published on the FACA website.

Nicky J. Megna,

CJIS Designated Federal Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2026–08197 Filed 4–27–26; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Program Year (PY) 2026 Workforce Innovation and Opportunity Act (WIOA) Title I Allotments; PY 2026 Title III Wagner-Peyser Act Employment Service (ES) Allotments and PY 2026 Workforce Information Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces allotments for PY 2026 for WIOA Title I Youth, Adult, and Dislocated Worker Activities programs; allotments for ES activities under the Wagner-Peyser Act for PY 2026, and the allotments of Workforce Information Grants to States for PY 2026.

DATES: The Department must receive comments on the formula used to allot funds to the Outlying Areas by May 28, 2026.

ADDRESSES: Questions on this notice can be submitted to the Employment and Training Administration (ETA), Office of Workforce Investment, 200 Constitution Ave. NW, Room S4209, Washington, DC 20210, Attention: Heather Fleck, Unit Chief, *Fleck.Heather@dol.gov.*

Commenters are advised that mail delivery in the Washington area may be delayed due to security concerns. The Department will receive hand-delivered comments at the above address. All overnight mail will be considered hand-delivered and must be received at the designated place by the date specified above. Please be advised that there may be a delay between when the mail is delivered to the building and when the relevant person receives it. Comments submitted after the deadline for submission will not be considered.

Comments: The Department will retain all comments on this notice and will release them upon request via email to any member of the public. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide you with appropriate aids such as readers or print magnifiers. The Department will make copies of this notice available, upon request, in large print, Braille, and electronic file. The Department also will consider providing the notice in other formats upon request. To schedule an appointment to review the comments and/or obtain the notice in an alternative format, contact Ms. Fleck using the information provided above. The Department will retain all comments received without making any changes to the comments, including any personal information provided. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive personally identifiable information (for example, social security numbers, driver's license or state identification numbers, passport numbers, or financial account numbers), or other information that you do not want to be made available to the public. Should the Department become aware of such information, the Department reserves the right to redact or refrain from sharing the information and libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; or that contain hate speech. Please note that depending on how information is submitted, the Department may not be able to redact the information and instead reserves the right to refrain from sharing the

information or comment in such situations. It is the commenter's responsibility to safeguard his or her information.

FOR FURTHER INFORMATION CONTACT: WIOA Youth Activities allotments—Sara Hastings at *Hastings.Sara@dol.gov;* WIOA Adult and Dislocated Worker Activities and ES allotments—Heather Fleck at *Fleck.Heather@dol.gov;* Workforce Information Grant allotments—Donald Haughton at *Haughton.Donald.W@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department is announcing WIOA allotments for PY 2026 for Youth Activities, Adult and Dislocated Worker Activities, Wagner-Peyser Act PY 2026 allotments, and PY 2026 Workforce Information Grant allotments. This notice provides information on the amount of funds available during PY 2026 to states with an approved WIOA Combined or Unified State Plan, and information regarding allotments to the Outlying Areas.

On February 3, 2026, the Consolidated Appropriations Act, 2026 was enacted and from this point forward, referred to as ''the Act''. The Act allows the Secretary to set aside up to 0.5 percent of each discretionary appropriation for activities related to program integrity and up to 0.75 percent of most operating funds for evaluations. Additionally, section 102 allows for up to 1 percent of discretionary funds in the Act to be transferred between programs, projects, or activities. For 2026, as authorized by the Act, the Department has set aside $645,000 of the Training and Employment Services (TES) and $155,000 of the State Unemployment Insurance and Employment Services Operations (SUIESO) appropriations impacted in this FRN for these activities. ETA reserved these funds from the WIOA Adult, Youth, Dislocated Worker, and Wagner-Peyser Act ES program budgets. Any funds not utilized for these reserve activities will be provided to the states.

The Act makes PY 2026 Youth Activities funds available for obligation on April 1, 2026, and funds the WIOA Adult and Dislocated Worker programs in two separate appropriations. The first appropriations for the Adult and Dislocated Worker programs become available for obligation on July 1, 2026; this portion is commonly referred to as ''base'' funds. The second appropriations for the Adult and Dislocated Worker programs become available for obligation on October 1, 2026; this portion is commonly referred to as ''advance'' funds because they are provided in the appropriations act passed during the fiscal year immediately before the fiscal year when the funds are available. For example, funds for PY 2026 that will be made available on October 1, 2026, were appropriated during FY 2026, but not made available until FY 2027, and are called the FY 2027 ''advance'' funds. We also have attached tables listing the PY 2026 allotments for programs under WIOA Title I Youth Activities (Table A), Adult and Dislocated Workers Employment and Training Activities (Tables B and C, respectively), and the PY 2026 Wagner-Peyser Act allotments (Table D). We also have attached the PY 2026 Workforce Information Grant table (Table E), the total WIOA Youth, Adult and Dislocated Worker funding for Outlying Areas (Table F) and the PY 2026 WIOA Youth, Adult, and Dislocated Worker Estimated Governor's Reserve Maximums (Table G).

Youth Activities Allotments. The appropriated level for PY 2026 for WIOA Youth Activities totals $948,130,000. After reducing the appropriation by $225,000 for set asides authorized by the Act and reserving $925,200 for Migrant and Seasonal Farmworker (MSFW) Youth, $946,979,800 is available for Youth Activities. Table A includes a breakdown of the Youth Activities program allotments for PY 2026 and provides a comparison of these allotments to PY 2025 Youth Activities allotments for all States and Outlying Areas. The WIOA Youth formula has a section in WIOA for a reservation for Migrant and Seasonal Farmworker (MSFW) Youth if the appropriation exceeds $925,000,000. Per WIOA 127(a)(1), ETA reserved 4 percent ($925,200) of the excess amount for MSFW Youth. For the Native American Youth program, the total amount available is 1.5 percent of the total amount for Youth Activities (after set asides authorized by the Act) after the MSFW Youth reservation (in accordance with WIOA section 127). The total funding available for the Outlying Areas was reserved at 0.25 percent of the amount appropriated for Youth Activities (after set asides authorized by the Act) after the amount reserved for MSFW Youth and Native American Youth (in accordance with WIOA section 127(b)(1)(B)(i)). On December 17, 2003, Public Law 108–188, the Compact of Free Association Amendments Act of 2003 (''the Compact''), was signed into law. The Compact specified that the Republic of Palau remained eligible for WIA Title I funding. See 48 U.S.C 1921d(f)(1)(B)(ix). WIOA sec. 512(g)(1) updated the Compact to refer to WIOA funding. The National Defense Authorization Act for Fiscal Year 2018 (Division A, Title XII, Subtitle F, Section 1259C(c) of Pub. L. 115–91) authorized WIOA Title I funding to the Republic of Palau through FY 2026.

Under WIA, the Secretary had discretion for determining the methodology for distributing funds to all Outlying Areas. Under WIOA the Secretary must award the funds through a competitive process. However, for PY 2026, the Consolidated Appropriations Act, 2026 waives the competition requirement regarding funding to Outlying Areas (*e.g.,* American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United States Virgin Islands). For PY 2026, outlying area grant amounts are based on the administrative formula determined by the Secretary that was used under the WIA. The Department used the same methodology used since PY 2000 (*i.e.,* we distribute funds among the Outlying Areas by formula based on relative share of the number of unemployed, a minimum of 90 percent of the prior year allotment percentage, a $75,000 minimum, and a 130 percent stop gain of the prior year share). For the relative share calculation in PY 2026, the Department continued to use the data obtained from the 2020 Census for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands. For the Republic of Palau, the Department used data from Palau's 2020 Census. The Department will accept comments on this methodology. The Act additionally allows Outlying Areas to submit a single application according to the requirements established by the Secretary for a consolidated grant for Adult, Youth, and Dislocated Worker funds. Subject to approval of the grant application and other reporting requirements of the Secretary, the Act allows Outlying Areas receiving a consolidated grant to use those funds interchangeably between Adult, Youth, and Dislocated Worker programs or activities. Table F includes the total Youth, Adult and Dislocated Worker funding for Outlying Areas.

After the Department calculated the amount for the MSFW Youth, Outlying Areas and the Native American program, the amount available for PY 2026 allotments to the states is $930,443,165. This total amount is below the required $1 billion threshold specified in WIOA sec. 127(b)(1)(C)(iv)(IV); therefore, the Department did not apply the WIOA additional minimum provisions.

Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply. WIOA also provides that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year. The three data factors required by WIOA sec. 127(b)(1)(C)(ii) for the PY 2026 Youth Activities state formula allotments are, summarized slightly, as follows:

(1) The average number of unemployed individuals in Areas of Substantial Unemployment (ASUs) for the 12-month period, July 2024–June 2025 in each state compared to the total number of unemployed individuals in ASUs in all states;

(2) Number of excess unemployed individuals or excess unemployed individuals in ASUs (depending on which is higher) averages for the same 12-month period used for ASU unemployed data compared to the total excess unemployed individuals or ASU excess number in all states; and

(3) Number of disadvantaged youth (age 16 to 21, excluding college students not in the workforce and military) from special tabulations of data from the American Community Survey (ACS), which the Department obtained from the Census Bureau in each state compared to the total number of disadvantaged youth in all states. The Census Bureau collected the data used in the special tabulations for disadvantaged youth between January 1, 2016–December 31, 2020.

For purposes of identifying ASUs for the Youth Activities allotment formula, the Department continued to use the data made available by the Bureau of Labor Statistics (BLS) (as described in the Local Area Unemployment Statistics (LAUS) Technical Memorandum No. S–25–17). For purposes of determining the number of disadvantaged youth, the Department used the special tabulations of ACS data available at: *https://www.dol.gov/agencies/eta/budget/formula/disadvantagedyouthadults.* See TEGL No. 01–23 for further information.

Adult Employment and Training Activities Allotments. The total appropriated funds for Adult Activities in PY 2026 is $875,649,000. After reducing the appropriated amount by $169,000 for set asides authorized by the Act, $875,480,000 remains for Adult Activities, of which $873,291,300 is for states and $2,188,700 is for Outlying Areas. Table B shows the PY 2026 Adult Employment and Training Activities allotments and a state-by-state comparison of the PY 2026 allotments to PY 2025 allotments.

In accordance with WIOA, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Adult Activities (after set asides authorized by the Act). As discussed in the Youth Activities section above, in PY 2026 the Department will distribute the Adult Activities funding for the Outlying Areas, using the same principles, formula, and data as used for outlying areas for Youth Activities. The Department will accept comments on this methodology. After determining the amount for the Outlying Areas, the Department used the statutory formula to distribute the remaining amount available for allotments to the states. The Department did not apply the WIOA minimum provisions for the PY 2026 allotments because the total amount available for the states was below the $960 million threshold required for Adult Activities in WIOA sec. 132(b)(1)(B)(iv)(IV). Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply. WIOA also provides that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year. The three formula data factors for the Adult Activities program are the same as those used for the Youth Activities formula, except the Department used data for the number of disadvantaged adults (age 22 to 72, excluding college students not in the workforce and military).

Dislocated Worker Employment and Training Activities Allotments. The amount appropriated for Dislocated Worker activities in PY 2026 totals $1,396,412,000. The total appropriation includes formula funds for the states, while the Dislocated Worker National Reserve is used for National Dislocated Worker Grants, technical assistance and training, demonstration projects, grant programs specified in the Act, and the Outlying Areas' Dislocated Worker allotments. After reducing the appropriated amount by $251,000 for set asides authorized by the Act, a total of $1,396,161,000 remains available for Dislocated Worker activities. The amount available for Outlying Areas is $3,490,403, leaving $297,321,597 for the Dislocated Worker National Reserve and a total of $1,095,349,000 available for states. Table C shows the PY 2026 Dislocated Worker activities allotments and a state-by-state comparison of the PY 2026 allotments to PY 2025 allotments.

Similar to the Adult Activities program, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Dislocated Worker Activities (after set asides authorized by the Act). Similar to Youth and Adult funds, instead of competition, in PY 2026 the Department will use the same *pro rata* share as the areas received for the PY 2026 WIOA Adult Activities program to distribute the Outlying Areas' Dislocated Worker funds, the same methodology used in PY 2025. The Department will accept comments on this methodology.

The three data factors required in WIOA sec. 132(b)(2)(B)(ii) for the PY 2026 Dislocated Worker state formula allotments are, summarized slightly, as follows:

(1) Relative number of unemployed individuals in each state, compared to the total number of unemployed individuals in all states, for the 12-month period, October 2024–September 2025;

(2) Relative number of excess unemployed individuals in each state, compared to the total excess number of unemployed individuals in all states, for the 12-month period, October 2024–September 2025; and

(3) Relative number of long-term unemployed individuals in each state, compared to the total number of long-term unemployed individuals in all states, for the 12-month period, October 2024–September 2025.

In PY 2026, under WIOA the Dislocated Worker formula uses minimum and maximum provisions. No state may receive an allotment that is less than 90 percent of the state's prior year allotment percentage (stop loss) or more than 130 percent of the state's prior year allotment percentage (stop gain).

Wagner-Peyser Act ES Allotments. The appropriated level for PY 2026 for ES grants totals $675,052,000. After reducing the appropriated amount by $155,000 for set asides authorized by the Act, $674,897,000 is available for ES grants. After determining the funding for Guam and the United States Virgin Islands, the Department calculated allotments to states using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). The Department based PY 2026 formula allotments on each state's share of calendar year 2025 monthly averages of the civilian labor force (CLF) and unemployment. Section 6(b)(4) of the Wagner-Peyser Act requires the Secretary to set aside up to three percent of the total funds available for ES to ensure that each state will have sufficient resources to maintain statewide ES activities. In accordance with this provision, the Department

included the three percent set-aside funds in this total allotment. The Department distributed the set-aside funds in two steps to states that have experienced a reduction in their relative share of the total resources available this year from their relative share of the total resources available the previous year. In Step 1, states that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. ETA calculated the median CLF density based on CLF data provided by the BLS for calendar year 2025. The Department distributed all remaining set-aside funds on a *pro-rata* basis in Step 2 to all other states experiencing reductions in relative share from the prior year but not meeting the size and density criteria for Step 1. The distribution of ES funds (Table D) includes $673,251,836 for states, as well as $1,645,164 for Outlying Areas.

Section 7(a) of the Wagner-Peyser Act (49 U.S.C. 49f(a)) authorizes states to use 90 percent of funds allotted to a state for labor exchange services and other career services such as job search and placement services to job seekers; appropriate recruitment services for employers; program evaluations; developing and providing labor market and occupational information; developing management information systems; and administering the work test for unemployment insurance claimants. Section 7(b) of the Wagner-Peyser Act states that 10 percent of the total sums allotted to each state must be reserved for use by the Governor to provide performance incentives for public ES offices and programs, provide services for groups with special needs, and to provide for the extra costs of exemplary models for delivering services of the type described in section 7(a) and models for enhancing professional development and career advancement opportunities of state agency staff.

Workforce Information Grants Allotments. Total PY 2026 funding for Workforce Information Grants allotments is $32,031,000. Table E contains the allotment figures for each state and Outlying Area. The Department distributes the funds by administrative formula, with a reserve of $176,874 for Guam and the United States Virgin Islands. Guam and the United States Virgin Islands allotment amounts are partially based on CLF data. The Department distributes the remaining funds to the states with 40 percent distributed equally to all states and 60 percent distributed based on each state's share of CLF for the 12 months ending September 2025.

TABLE A—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA YOUTH ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS

State	PY 2025	PY 2026	Difference	% Difference
Total	$936,974,800	$946,979,800	$10,005,000	1.07
Alabama	8,374,633	9,191,727	817,094	9.76
Alaska	3,076,467	2,798,386	(278,081)	−9.04
Arizona	20,629,527	19,267,846	(1,361,681)	−6.60
Arkansas	6,199,664	6,212,277	12,613	0.20
California	168,549,346	156,286,824	(12,262,522)	−7.28
Colorado	11,038,571	14,503,373	3,464,802	31.39
Connecticut	10,129,143	9,213,572	(915,571)	−9.04
Delaware	3,149,146	2,864,495	(284,651)	−9.04
District of Columbia	4,047,766	3,797,571	(250,195)	−6.18
Florida	36,051,150	42,561,138	6,509,988	18.06
Georgia	15,575,092	16,599,321	1,024,229	6.58
Hawaii	3,024,364	2,750,992	(273,372)	−9.04
Idaho	3,053,834	3,966,623	912,789	29.89
Illinois	51,532,517	46,874,502	(4,658,015)	−9.04
Indiana	16,020,894	18,151,132	2,130,238	13.30
Iowa	4,733,939	5,938,091	1,204,152	25.44
Kansas	4,171,693	5,481,110	1,309,417	31.39
Kentucky	16,711,538	17,779,204	1,067,666	6.39
Louisiana	13,943,764	15,079,497	1,135,733	8.15
Maine	2,301,532	2,414,374	112,842	4.90
Maryland	14,496,158	13,185,853	(1,310,305)	−9.04
Massachusetts	16,905,672	22,212,048	5,306,376	31.39
Michigan	30,600,102	39,722,382	9,122,280	29.81
Minnesota	7,719,711	8,746,210	1,026,499	13.30
Mississippi	7,694,466	6,998,965	(695,501)	−9.04
Missouri	11,547,823	14,428,367	2,880,544	24.94
Montana	2,301,532	2,326,108	24,576	1.07
Nebraska	2,777,724	3,373,156	595,432	21.44
Nevada	13,780,336	13,198,383	(581,953)	−4.22
New Hampshire	2,301,532	2,326,108	24,576	1.07
New Jersey	30,882,177	28,090,743	(2,791,434)	−9.04
New Mexico	6,966,908	6,337,170	(629,738)	−9.04
New York	64,583,434	58,745,749	(5,837,685)	−9.04
North Carolina	24,203,148	23,260,666	(942,482)	−3.89
North Dakota	2,301,532	2,326,108	24,576	1.07
Ohio	35,253,325	41,069,654	5,816,329	16.50
Oklahoma	7,230,619	6,577,045	(653,574)	−9.04
Oregon	11,043,514	12,638,428	1,594,914	14.44
Pennsylvania	38,706,078	35,207,443	(3,498,635)	−9.04
Puerto Rico	17,337,360	15,770,239	(1,567,121)	−9.04
Rhode Island	2,920,789	3,837,570	916,781	31.39
South Carolina	10,115,862	13,291,043	3,175,181	31.39
South Dakota	2,301,532	2,326,108	24,576	1.07

TABLE A—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA YOUTH ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS—Continued

State	PY 2025	PY 2026	Difference	% Difference
Tennessee	13,145,214	14,757,608	1,612,394	12.27
Texas	86,093,073	83,028,726	(3,064,347)	−3.56
Utah	4,194,972	5,005,182	810,210	19.31
Vermont	2,301,532	2,326,108	24,576	1.07
Virginia	11,703,814	12,893,863	1,190,049	10.17
Washington	20,361,373	18,520,912	(1,840,461)	−9.04
West Virginia	5,282,714	4,805,210	(477,504)	−9.04
Wisconsin	8,942,740	9,051,847	109,107	1.22
Wyoming	2,301,532	2,326,108	24,576	1.07
State Total	920,612,878	930,443,165	9,830,287	1.07
American Samoa	337,424	341,148	3,724	1.10
Guam	926,014	936,235	10,221	1.10
Northern Marianas	432,422	437,194	4,772	1.10
Palau	75,000	75,000	0	0.00
Virgin Islands	536,440	542,361	5,921	1.10
Outlying Areas Total	2,307,300	2,331,938	24,638	1.07
Native Americans	14,054,622	14,204,697	150,075	1.07

TABLE B—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA ADULT ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS

State	PY 2025	PY 2026	Difference	% Difference
Total	$883,351,000	$875,480,000	($7,871,000)	−0.89
Alabama	8,187,967	8,898,722	710,755	8.68
Alaska	2,911,706	2,597,185	(314,521)	−10.80
Arizona	19,520,972	17,859,619	(1,661,353)	−8.51
Arkansas	6,024,321	5,958,432	(65,889)	−1.09
California	163,337,664	149,671,359	(13,666,305)	−8.37
Colorado	10,150,973	13,078,681	2,927,708	28.84
Connecticut	9,185,592	8,193,370	(992,222)	−10.80
Delaware	3,056,641	2,726,465	(330,176)	−10.80
District of Columbia	3,683,180	3,390,908	(292,272)	−7.94
Florida	38,614,664	44,375,942	5,761,278	14.92
Georgia	14,980,465	15,745,416	764,951	5.11
Hawaii	3,082,097	2,749,171	(332,926)	−10.80
Idaho	2,863,713	3,480,799	617,086	21.55
Illinois	49,165,427	43,854,610	(5,310,817)	−10.80
Indiana	14,202,901	15,974,117	1,771,216	12.47
Iowa	3,306,963	4,260,746	953,783	28.84
Kansas	3,128,980	4,031,429	902,449	28.84
Kentucky	16,299,905	17,096,663	796,758	4.89
Louisiana	13,800,624	14,700,737	900,113	6.52
Maine	2,202,857	2,183,228	(19,629)	−0.89
Maryland	14,098,161	12,575,287	(1,522,874)	−10.80
Massachusetts	14,619,763	18,836,344	4,216,581	28.84
Michigan	28,712,786	36,760,047	8,047,261	28.03
Minnesota	6,580,946	6,964,044	383,098	5.82
Mississippi	7,432,434	6,629,587	(802,847)	−10.80
Missouri	10,789,714	13,345,683	2,555,969	23.69
Montana	2,202,857	2,183,228	(19,629)	−0.89
Nebraska	2,202,857	2,492,306	289,449	13.14
Nevada	13,619,140	12,904,060	(715,080)	−5.25
New Hampshire	2,202,857	2,183,228	(19,629)	−0.89
New Jersey	30,376,429	27,095,187	(3,281,242)	−10.80
New Mexico	6,764,694	6,185,280	(579,414)	−8.57
New York	63,421,041	56,570,341	(6,850,700)	−10.80
North Carolina	23,188,433	21,936,734	(1,251,699)	−5.40
North Dakota	2,202,857	2,183,228	(19,629)	−0.89
Ohio	32,932,150	37,932,499	5,000,349	15.18
Oklahoma	6,680,103	5,958,523	(721,580)	−10.80
Oregon	10,839,402	12,022,152	1,182,750	10.91
Pennsylvania	36,311,530	32,389,182	(3,922,348)	−10.80
Puerto Rico	18,141,119	16,181,527	(1,959,592)	−10.80
Rhode Island	2,476,330	3,190,544	714,214	28.84
South Carolina	9,817,775	12,649,383	2,831,608	28.84

TABLE B—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA ADULT ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS—Continued

State	PY 2025	PY 2026	Difference	% Difference
South Dakota	2,202,857	2,183,228	(19,629)	−0.89
Tennessee	12,988,349	14,358,588	1,370,239	10.55
Texas	81,731,170	77,453,240	(4,277,930)	−5.23
Utah	3,108,341	3,795,012	686,671	22.09
Vermont	2,202,857	2,183,228	(19,629)	−0.89
Virginia	11,024,882	11,508,422	483,540	4.39
Washington	19,669,803	17,545,084	(2,124,719)	−10.80
West Virginia	5,239,482	4,673,517	(565,965)	−10.80
Wisconsin	7,451,034	7,411,760	(39,274)	−0.53
Wyoming	2,202,857	2,183,228	(19,629)	−0.89
State Total	881,142,622	873,291,300	(7,851,322)	−0.89
American Samoa	322,472	319,497	(2,975)	−0.92
Guam	884,979	876,816	(8,163)	−0.92
Northern Marianas	413,259	409,448	(3,811)	−0.92
Palau	75,000	75,000	0	0.00
Virgin Islands	512,668	507,939	(4,729)	−0.92
Outlying Areas Total	2,208,378	2,188,700	(19,678)	−0.89

TABLE C—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS

State	PY 2025	PY 2026	Difference	% Difference
Total	$1,393,378,000	$1,396,161,000	$2,783,000	0.20
Alabama	11,101,897	10,017,589	(1,084,308)	−9.77
Alaska	5,287,961	4,771,493	(516,468)	−9.77
Arizona	25,479,655	22,991,090	(2,488,565)	−9.77
Arkansas	4,069,250	4,083,588	14,338	0.35
California	206,023,191	259,233,111	53,209,920	25.83
Colorado	12,679,156	11,440,799	(1,238,357)	−9.77
Connecticut	10,623,875	9,586,255	(1,037,620)	−9.77
Delaware	2,264,995	2,043,776	(221,219)	−9.77
District of Columbia	10,879,820	9,817,202	(1,062,618)	−9.77
Florida	37,289,765	33,647,722	(3,642,043)	−9.77
Georgia	24,037,678	21,689,949	(2,347,729)	−9.77
Hawaii	2,280,320	2,057,604	(222,716)	−9.77
Idaho	2,349,731	2,573,679	223,948	9.53
Illinois	76,440,615	68,974,760	(7,465,855)	−9.77
Indiana	11,115,373	10,029,749	(1,085,624)	−9.77
Iowa	4,826,678	4,750,456	(76,222)	−1.58
Kansas	4,826,014	4,354,664	(471,350)	−9.77
Kentucky	10,534,326	13,730,098	3,195,772	30.34
Louisiana	13,178,385	11,891,269	(1,287,116)	−9.77
Maine	1,824,548	1,646,347	(178,201)	−9.77
Maryland	13,481,234	12,164,540	(1,316,694)	−9.77
Massachusetts	17,871,146	17,787,057	(84,089)	−0.47
Michigan	24,967,752	32,542,155	7,574,403	30.34
Minnesota	7,689,386	7,644,784	(44,602)	−0.58
Mississippi	10,724,038	9,676,635	(1,047,403)	−9.77
Missouri	8,822,149	7,960,501	(861,648)	−9.77
Montana	1,291,832	1,165,660	(126,172)	−9.77
Nebraska	1,644,357	2,143,201	498,844	30.34
Nevada	23,245,585	20,975,219	(2,270,366)	−9.77
New Hampshire	1,720,155	1,837,029	116,874	6.79
New Jersey	41,952,869	37,855,387	(4,097,482)	−9.77
New Mexico	16,054,292	14,486,290	(1,568,002)	−9.77
New York	91,554,591	82,612,574	(8,942,017)	−9.77
North Carolina	18,938,010	17,088,359	(1,849,651)	−9.77
North Dakota	962,974	868,922	(94,052)	−9.77
Ohio	24,507,861	31,942,748	7,434,887	30.34
Oklahoma	5,021,271	4,890,953	(130,318)	−2.60
Oregon	8,470,128	11,039,689	2,569,561	30.34
Pennsylvania	47,026,868	42,433,815	(4,593,053)	−9.77
Puerto Rico	97,524,351	87,999,275	(9,525,076)	−9.77
Rhode Island	2,807,738	2,735,625	(72,113)	−2.57
South Carolina	9,468,429	8,543,660	(924,769)	−9.77
South Dakota	1,043,331	941,430	(101,901)	−9.77

TABLE C—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS COMPARISON OF PY 2026 ALLOTMENTS VS PY 2025 ALLOTMENTS—Continued

State	PY 2025	PY 2026	Difference	% Difference
Tennessee	11,648,202	10,510,537	(1,137,665)	−9.77
Texas	67,392,496	60,810,359	(6,582,137)	−9.77
Utah	3,775,941	4,422,155	646,214	17.11
Vermont	806,543	727,769	(78,774)	−9.77
Virginia	11,528,671	12,992,936	1,464,265	12.70
Washington	25,672,738	23,165,315	(2,507,423)	−9.77
West Virginia	8,118,689	7,325,747	(792,942)	−9.77
Wisconsin	8,853,181	7,988,502	(864,679)	−9.77
Wyoming	818,959	738,972	(79,987)	−9.77
State Total	1,092,519,000	1,095,349,000	2,830,000	0.26
American Samoa	508,660	509,514	854	0.17
Guam	1,395,946	1,398,292	2,346	0.17
Northern Marianas	651,865	652,962	1,097	0.17
Palau	118,303	119,605	1,302	1.10
Virgin Islands	808,671	810,030	1,359	0.17
Outlying Areas Total	3,483,445	3,490,403	6,958	0.20
National Reserve	297,375,555	297,321,597	(53,958)	−0.02

TABLE D—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION EMPLOYMENT SERVICE (WAGNER-PEYSER) PY 2026 VS PY 2025 ALLOTMENTS

State	PY 2025	PY 2026	Difference	Difference
Total	$667,786,000	$674,897,000	$7,111,000	1.06
Alabama	7,958,015	7,997,315	39,300	0.49
Alaska	7,259,152	7,336,452	77,300	1.06
Arizona	14,020,076	14,116,534	96,458	0.69
Arkansas	4,951,896	5,114,831	162,935	3.29
California	79,957,873	80,539,150	581,277	0.73
Colorado	12,129,654	12,205,912	76,258	0.63
Connecticut	7,276,222	7,274,594	(1,628)	−0.02
Delaware	1,983,351	1,986,162	2,811	0.14
District of Columbia	1,886,677	1,902,588	15,911	0.84
Florida	38,374,546	40,093,942	1,719,396	4.48
Georgia	19,051,765	19,121,367	69,602	0.37
Hawaii	2,649,944	2,612,505	(37,439)	−1.41
Idaho	6,048,166	5,962,717	(85,449)	−1.41
Illinois	26,237,816	26,194,174	(43,642)	−0.17
Indiana	12,697,063	12,699,401	2,338	0.02
Iowa	5,953,674	6,048,937	95,263	1.60
Kansas	5,270,052	5,516,119	246,067	4.67
Kentucky	8,155,470	8,207,755	52,285	0.64
Louisiana	8,180,903	8,152,216	(28,687)	−0.35
Maine	3,596,787	3,635,088	38,301	1.06
Maryland	11,946,103	11,921,523	(24,580)	−0.21
Massachusetts	14,256,605	15,045,542	788,937	5.53
Michigan	19,347,254	19,990,873	643,619	3.33
Minnesota	10,724,779	11,102,842	378,063	3.53
Mississippi	4,889,039	4,871,528	(17,511)	−0.36
Missouri	11,236,561	11,428,433	191,872	1.71
Montana	4,942,591	4,995,223	52,632	1.06
Nebraska	4,232,224	4,172,430	(59,794)	−1.41
Nevada	6,837,109	6,869,366	32,257	0.47
New Hampshire	2,548,108	2,583,095	34,987	1.37
New Jersey	18,907,345	19,098,199	190,854	1.01
New Mexico	5,546,459	5,605,521	59,062	1.06
New York	38,705,830	38,561,423	(144,407)	−0.37
North Carolina	19,167,523	19,227,358	59,835	0.31
North Dakota	5,033,038	5,086,633	53,595	1.06
Ohio	22,277,650	22,674,878	397,228	1.78
Oklahoma	6,958,574	6,992,128	33,554	0.48
Oregon	8,374,612	8,612,312	237,700	2.84
Pennsylvania	24,979,701	24,932,697	(47,004)	−0.19
Puerto Rico	5,611,115	5,542,591	(68,524)	−1.22
Rhode Island	2,254,255	2,267,618	13,363	0.59
South Carolina	9,356,205	9,584,392	228,187	2.44

TABLE D—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION EMPLOYMENT SERVICE (WAGNER-PEYSER) PY 2026 VS PY 2025 ALLOTMENTS—Continued

State	PY 2025	PY 2026	Difference	Difference
South Dakota	4,651,684	4,701,218	49,534	1.06
Tennessee	12,282,147	12,348,295	66,148	0.54
Texas	57,857,868	58,296,340	438,472	0.76
Utah	6,209,916	6,310,448	100,532	1.62
Vermont	2,179,113	2,202,318	23,205	1.06
Virginia	15,685,643	15,824,651	139,008	0.89
Washington	15,608,727	15,662,754	54,027	0.35
West Virginia	5,324,312	5,381,009	56,697	1.06
Wisconsin	10,977,975	10,993,005	15,030	0.14
Wyoming	3,609,003	3,647,434	38,431	1.06
State Total	666,158,170	673,251,836	7,093,666	1.06
Guam	312,473	315,800	3,327	1.06
Virgin Islands	1,315,357	1,329,364	14,007	1.06
Outlying Areas Total	1,627,830	1,645,164	17,334	1.06

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES PY 2026 VS PY 2025 ALLOTMENTS

State	PY 2025	PY 2026	Difference	% Difference
Total	$31,975,000	$32,031,000	$56,000	0.18
Alabama	508,383	509,199	816	0.16
Alaska	284,973	285,550	577	0.20
Arizona	667,272	667,258	(14)	0.00
Arkansas	402,106	403,504	1,398	0.35
California	2,429,762	2,446,924	17,162	0.71
Colorado	610,292	609,590	(702)	−0.12
Connecticut	459,552	462,117	2,565	0.56
Delaware	301,707	301,676	(31)	−0.01
District of Columbia	290,450	291,641	1,191	0.41
Florida	1,492,767	1,489,805	(2,962)	−0.20
Georgia	851,425	844,225	(7,200)	−0.85
Hawaii	320,385	321,399	1,014	0.32
Idaho	355,140	357,458	2,318	0.65
Illinois	978,220	979,542	1,322	0.14
Indiana	628,242	633,029	4,787	0.76
Iowa	435,283	437,527	2,244	0.52
Kansas	414,866	418,237	3,371	0.81
Kentucky	475,620	480,268	4,648	0.98
Louisiana	478,925	475,761	(3,164)	−0.66
Maine	323,379	323,663	284	0.09
Maryland	607,147	605,281	(1,866)	−0.31
Massachusetts	674,753	684,161	9,408	1.39
Michigan	814,515	809,690	(4,825)	−0.59
Minnesota	593,913	595,851	1,938	0.33
Mississippi	384,443	388,383	3,940	1.02
Missouri	597,532	596,743	(789)	−0.13
Montana	309,996	309,129	(867)	−0.28
Nebraska	363,582	365,714	2,132	0.59
Nevada	427,143	431,330	4,187	0.98
New Hampshire	331,310	331,329	19	0.01
New Jersey	789,912	789,495	(417)	−0.05
New Mexico	354,272	355,072	800	0.23
New York	1,341,116	1,342,453	1,337	0.10
North Carolina	838,330	833,315	(5,015)	−0.60
North Dakota	291,783	292,820	1,037	0.36
Ohio	903,189	906,133	2,944	0.33
Oklahoma	469,461	467,732	(1,729)	−0.37
Oregon	491,201	491,265	64	0.01
Pennsylvania	985,590	972,082	(13,508)	−1.37
Puerto Rico	381,114	382,725	1,611	0.42
Rhode Island	310,831	310,583	(248)	−0.08
South Carolina	526,763	530,472	3,709	0.70
South Dakota	299,052	299,818	766	0.26
Tennessee	628,760	631,252	2,492	0.40
Texas	1,971,932	2,005,638	33,706	1.71
Utah	447,893	450,223	2,330	0.52

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES PY 2026 VS PY 2025 ALLOTMENTS—Continued

State	PY 2025	PY 2026	Difference	% Difference
Vermont	284,801	284,403	(398)	−0.14
Virginia	760,614	752,465	(8,149)	−1.07
Washington	697,572	694,697	(2,875)	−0.41
West Virginia	333,638	331,943	(1,695)	−0.51
Wisconsin	599,557	595,934	(3,623)	−0.60
Wyoming	277,796	277,622	(174)	−0.06
State Total	31,798,260	31,854,126	55,866	0.18
Guam	97,673	97,757	84	0.09
Virgin Islands	79,067	79,117	50	0.06
Outlying Areas Total	176,740	176,874	134	0.08

TABLE F—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA YOUTH, ADULT, AND DISLOCATED WORKER OUTLYING AREAS FUNDING PY 2026

	Youth	Adult	Dislocated Worker	Total
American Samoa	341,148	319,497	509,514	1,170,159
Guam	936,235	876,816	1,398,292	3,211,343
Northern Marianas	437,194	409,448	652,962	1,499,604
Palau	75,000	75,000	119,605	269,605
Virgin Islands	542,361	507,939	810,030	1,860,330
Outlying Areas Total	2,331,938	2,188,700	3,490,403	8,011,041

TABLE G—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION PY 2026 WIOA YOUTH, ADULT, AND DISLOCATED WORKER ESTIMATED GOVERNOR'S RESERVE MAXIMUMS

State	WIOA Youth	WIOA Adult	WIOA Dislocated Worker	Total
Total	$139,916,240	$131,321,945	$164,825,855	$436,064,040
Alabama	1,378,759	1,334,807	1,502,637	4,216,203
Alaska	419,757	389,576	715,723	1,525,056
Arizona	2,890,176	2,678,942	3,448,663	9,017,781
Arkansas	931,841	893,763	612,537	2,438,141
California	23,443,023	22,450,703	38,884,966	84,778,692
Colorado	2,175,505	1,961,801	1,716,119	5,853,425
Connecticut	1,382,035	1,229,004	1,437,938	4,048,977
Delaware	429,674	408,969	306,565	1,145,208
District of Columbia	569,635	508,635	1,472,579	2,550,849
Florida	6,384,170	6,656,391	5,047,158	18,087,719
Georgia	2,489,898	2,361,811	3,253,492	8,105,201
Hawaii	412,648	412,375	308,640	1,133,663
Idaho	594,993	522,119	386,051	1,503,163
Illinois	7,031,175	6,578,190	10,346,213	23,955,578
Indiana	2,722,669	2,396,117	1,504,462	6,623,248
Iowa	890,713	639,111	712,567	2,242,391
Kansas	822,166	604,714	653,199	2,080,079
Kentucky	2,666,880	2,564,498	2,059,514	7,290,892
Louisiana	2,261,924	2,205,110	1,783,689	6,250,723
Maine	362,156	327,484	246,951	936,591
Maryland	1,977,877	1,886,292	1,824,680	5,688,849
Massachusetts	3,331,807	2,825,451	2,668,058	8,825,316
Michigan	5,958,357	5,514,006	4,881,322	16,353,685
Minnesota	1,311,931	1,044,605	1,146,716	3,503,252
Mississippi	1,049,844	994,437	1,451,494	3,495,775
Missouri	2,164,255	2,001,852	1,194,074	5,360,181
Montana	348,916	327,484	174,848	851,248
Nebraska	505,973	373,845	321,479	1,201,297
Nevada	1,979,757	1,935,608	3,146,281	7,061,646
New Hampshire	348,916	327,484	275,553	951,953
New Jersey	4,213,611	4,064,277	5,678,307	13,956,195
New Mexico	950,575	927,791	2,172,942	4,051,308
New York	8,811,862	8,485,550	12,391,885	29,689,297
North Carolina	3,489,099	3,290,509	2,563,253	9,342,861
North Dakota	348,916	327,484	130,338	806,738

TABLE G—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION PY 2026 WIOA YOUTH, ADULT, AND DISLOCATED WORKER ESTIMATED GOVERNOR'S RESERVE MAXIMUMS—Continued

State	WIOA Youth	WIOA Adult	WIOA Dislocated Worker	Total
Ohio	6,160,448	5,689,874	4,791,411	16,641,733
Oklahoma	986,556	893,778	733,642	2,613,976
Oregon	1,895,764	1,803,321	1,655,953	5,355,038
Pennsylvania	5,281,116	4,858,376	6,365,071	16,504,563
Puerto Rico	2,365,535	2,427,228	13,199,890	17,992,653
Rhode Island	575,635	478,580	410,342	1,464,557
South Carolina	1,993,656	1,897,406	1,281,549	5,172,611
South Dakota	348,916	327,484	141,213	817,613
Tennessee	2,213,641	2,153,787	1,576,580	5,944,008
Texas	12,454,308	11,617,985	9,121,553	33,193,846
Utah	750,777	569,251	663,322	1,983,350
Vermont	348,916	327,484	109,164	785,564
Virginia	1,934,079	1,726,262	1,948,939	5,609,280
Washington	2,778,136	2,631,761	3,474,796	8,884,693
West Virginia	720,781	701,027	1,098,861	2,520,669
Wisconsin	1,357,777	1,111,763	1,198,275	3,667,815
Wyoming	348,916	327,484	110,845	787,245
State Total	139,566,450	130,993,646	164,302,299	434,862,395
American Samoa	51,172	47,924	76,426	175,522
Guam	140,435	131,521	209,743	481,699
Northern Marianas	65,579	61,416	97,943	224,938
Palau	11,250	11,249	17,940	40,439
Virgin Islands	81,354	76,189	121,504	279,047
Outlying Areas Total	349,790	328,299	523,556	1,201,645

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–08199 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–FN–P; 4510–FT–P

DEPARTMENT OF LABOR

[OMB Control No. 1245–0003]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Organization and Auxiliary Reports; Correction

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Notice; correction.

SUMMARY: This is a correction of a notice published on March 25, 2026, where RIN 1245–AA15 was referenced in error.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of March 25, 2026, in FR Document 2026–05778, at 91 FR 14589, in error referenced RIN 1245–AA15. The OMB will consider all written comments that the agency receives on or before April 24, 2026.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–08203 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–86–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claim for Compensation by a Dependent Information Reports

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 28, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The forms included in this information collection are used to request information for entitlement to claim benefits under the Federal Employees' Compensation from federal employees, as well as their dependents or survivors, to prove continued eligibility for benefits, to show entitlement to remaining compensation payments of a deceased employee, and to show dependency. For additional substantive information

about this ICR, see the related notice published in the **Federal Register** on February 3, 2026 (91 FR 4968).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Claim for Compensation by a Dependent Information Reports.

OMB Control Number: 1240–0013.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 1,241.

Total Estimated Number of Responses: 1,241.

Total Estimated Annual Time Burden: 1,063 hours.

Total Estimated Annual Other Costs Burden: $730.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2026–08208 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

[OMB Control No. 1220–0153]

Agency Information Collection Activities; Submission for OMB Review; Consumer Expenditure Surveys: Contingent Work Supplement to the Current Population Survey; Correction

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice; correction.

SUMMARY: This is a correction of a notice published in the **Federal Register** of April 23, 2026, which contained an incorrect subject heading.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 23, 2026 in FR Doc. 2026–07872, at 91 FR 21854, the subject heading incorrectly referenced Consumer Expenditure Surveys. The collection is the Contingent Work Supplement to the Current Population Survey.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–08175 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0056]

Voluntary Protection Programs; Revision of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to revise the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Voluntary Protection Program.

DATES: Comments must be submitted (postmarked, sent, or received) by June 29, 2026.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov*. Documents in the docket are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the websites. 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.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2011–0056) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Belinda Cannon, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The Voluntary Protection Programs (VPP) [1] established the efficacy of cooperative action among government, industry, and labor to address employee safety and health

[1] Source: Adopted by OSHA on July 2,1982 (47 FR 29025).

issues and to expand employee protection. To qualify, employers must meet OSHA's safety and health management criteria which focus on comprehensive management programs and active employee involvement to prevent or control worksite safety and health hazards. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance, and set their own more stringent standards, wherever necessary, to improve employee protection. Prospective VPP worksites must submit an application that includes:

- General applicant information (*e.g.,* site, corporate, and collective bargaining contact information).
- Injury and illness rate performance information (*i.e.,* number of employees and/or applicable contractors on-site, type of work performed and products produced, North American Industry Classification System (NAICS), and Recordable Injury and Illness Case Incidence Rate information.
- Safety and health management program information (*i.e.,* description of the applicant's safety and health management programs including how the programs successfully address management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training.

OSHA uses this information to determine whether an applicant is ready for a VPP on-site evaluation and as a verification tool during VPP on-site evaluations. Without this information, OSHA would be unable to determine which sites are ready for VPP status.

Each current VPP applicant is also required to submit an annual evaluation which addresses how that applicant is continuing the adherence to programmatic requirements. In 2008, OSHA modified procedures for VPP applicants, OSHA on-site evaluation, and Annual participant self-evaluation for applicants/participants subject to OSHA's Process Safety Management (PSM) Standard. Applicants that perform works that use or produce highly hazardous chemical exceeding specified limits covered under the PSM standard must submit responses to the PSM application supplement along with their VPP application.

Once in VPP, the participant is required to submit an annual evaluation detailing the continued adherence to programmatic requirements. Applicants covered under the PSM standard are required to submit a PSM questionnaire a supplemental document as part of their annual submission. OSHA needs this information to ensure that the participant remains qualified to participate in the VPP between the on-site evaluations. Without this information, OSHA would be unable to determine whether applicants are maintaining excellent safety and health management programs during this interim period.

In 2009, with the publication of **Federal Register** Notice (FRN) E9–165 (74 FR 927), VPP revised the traditional focus on individual fixed worksites (site-based) by adding two new ways to participate: mobile workforce and corporate. A significant reorganization of the program helps clarify the multiple participation options now available.

Employees of VPP participants may apply to participate in OSHA's Special Government Employee (SGE) Program as VPP SGEs. OSHA's SGE Program offers private and public sector safety and health professionals and other qualified participants the opportunity to exchange ideas, gain new perspectives, and grow professionally while serving as OSHA's SGEs. In 2026, OSHA expanded their SGE Program with the creation of Safety Champions Program (SCP) SGEs. This new designation allows for safety and health individuals from across the country not at VPP sites to apply to OSHA's SGE Program to assist Safety Champions Participants to improve their safety and health program. VPP SGEs may participate in qualifying activities, such as VPP on-site evaluations, mentoring VPP sites or applicants, review VPP applications and annual self-evaluations, and even assist Safety Champions Participants. SCP SGEs may assist SCP participants by performing document reviews, step tracker completion, and answer questions for the participants. Individuals applying to the SGE Program and SGEs renewing the term after three years must submit an application that includes:

- SGE Eligibility Information Sheet (*i.e.,* applicant's name, professional credentials, site/corporate contact information, etc.);
- Current Resume or work history; and
- Confidential Financial Disclosure Report (OGE Form 450) (this revision removes the use of the Optional Application for Federal Employment OF–612 within the SGE application).

OSHA uses the SGE Eligibility Information Sheet to ensure that the potential SGE meets the minimum eligibility and qualification requirements. The resume is required to provide a detailed description of their current duties and responsibilities as they relate to safety and health, OSHA standards, and the knowledge of effective safety and health programs. The OGE Form 450 is used to ensure that SGEs do not participate in qualifying activities where they have a financial interest.

The OSHA Safety Champions Program (SCP), a rebranding and revitalization of OSHA Challenge, is designed to reach and guide employers and companies in all major industry groups who are strongly committed to improving their safety and health programs and possibly pursuing recognition in the VPP. The SCP Sign Up is used to register interested companies/worksites into the Safety Champions Program. The SCP coordinator will review each participant's registration and ensure that all necessary information is completed in order to progress participants through the program. A participant can use the SCP Tracker to (1) conduct a preliminary analysis of the participant's knowledge of safety and health programs; and (2) make a determination regarding where the participant's s believe they should start to progress through the steps.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Voluntary Protection Programs. The agency is seeking a program change in burden going from 69,657 to 53,289 hours, a difference of 16,368 hours. This program change is primarily due to rebranding the name of the OSHA Challenge Program to the OSHA Safety Champions Program and the removal of the OF–612 (*Optional Application for Federal Employment form*). Also, there was a decrease in the number of estimated VPP applicants based on the trend in data.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Revision of a currently approved collection.

Title: Voluntary Protection Programs (VPP).

OMB Control Number: 1218–0239.

Affected Public: Business or other for-profits.

Number of Respondents: 3,000.

Number of Responses: 9,470.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 53,440.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA–2011–0056). You may supplement electronic submission by uploading document files electronically.

Comments and submissions are posted without change at *https://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *https://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submission, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *https://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link.

Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 7–2025 (90 FR 27878).

Signed at Washington, DC, on April 15, 2026.

Amanda Laihow,

Principle Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–08202 Filed 4–27–26; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document No: NASA–26–023; NASA Docket No: NASA–2026–0199]

Draft Environmental Impact Statement for the Berkeley Space Center at NASA Research Park

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability; notice of meeting; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended and the National Aeronautics and Space Administration's (NASA's) procedures for implementing NEPA, NASA, in cooperation with the University of California, Berkeley (UC Berkeley), have jointly published an Environmental Impact Statement (EIS) for the Berkeley Space Center at NASA Research Park. The EIS is a joint EIS/environmental impact report (EIR) that fulfills the requirements of both NEPA and the California Environmental Quality Act (CEQA). The proposed project under consideration by NASA (*i.e.,* the proposed action) is the Berkeley Space Center at NASA Research Park, which would be located at the NASA owned and operated Ames Research Center in Santa Clara County, California. This notice opens a 45-day public comment period during which the public and other interested parties are encouraged to submit comments.

ADDRESSES. The public comment period is for a period of 45 days from publication of this notice.

DATES: To ensure consideration of your comments, we are requesting submission of your comments no later than June 10, 2026. UC Berkeley and NASA will hold one joint online public comment meeting to provide agencies and the public with an opportunity to provide oral and written comments on the joint EIR/EIS. The public comment meeting will be held on Wednesday, May 13, 2026. Information regarding public comment meeting and the location of project materials is found under **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES:

Viewing and Obtaining Documents:

- *Federal E-Rulemaking Portal:* You may view this notice on the Federal eRulemaking Portal at *http://www.regulations.gov* (under Docket Number NASA–2026–0199); or
- *NASA's Website:* You may obtain copies of the draft joint EIR/EIS on NASA's website at *https://environment.arc.nasa.gov/NEPA.html.*
- *In-Person:* Copies of the draft joint EIR/EIS are also available for public inspection and review at the following locations: Mountain View Public Library at 585 Franklin Street, Mountain View, CA 94041, and Sunnyvale Public Library at 665 West Olive Avenue, Sunnyvale, CA 94086.

Submitting Comments: Advance registration to attend or provide a comment at the virtual public meeting described under **SUPPLEMENTARY INFORMATION** is not required. Public meeting attendees may submit comments during the public meeting, or by other means described below throughout the 45-day comment period. Please provide your comments no later than June 10, 2026, to ensure consideration in the final joint EIS/EIR. You may submit written comments and materials by one of the following methods:

- *U.S. mail:* NASA Ames Research Center, Attn: Berkeley Space Center at NASA Research Park, M/S 213–07, Moffett Field, CA 94035–0001.
- *E-mail: arc-nepacomments@nasa.gov.*
- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet without changes, including any personal information provided.

We encourage you to submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* If submitting your comments electronically, it is not necessary to submit a hard copy. All comments received will be posted without change to *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including any personal identifying information you provide—may be publicly available at any time. While

you may request, in your comment, to withhold from public review your personal identifying information, we cannot guarantee that your request will be granted.

FOR FURTHER INFORMATION CONTACT: Andrés Estrada, Center NEPA Manager, NASA Ames Research Center, *arc-nepacomments@nasa.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The publication of EPA's notice is the official start of the comment period for an EIS.

Background

The scoping process for the EIS was initiated when the notice of intent (NOI) was released for the proposed action from June 25, 2024, for a 30-day public review period through July 26, 2024. Public scoping meetings were held via Zoom on July 10, 2024, and July 15, 2024. In addition, the NOI was published in the **Federal Register** on June 26, 2024, under Docket Number NASA–24–039. A summary of comments provided during the scoping period is provided in Appendix 1–1 of the draft joint EIR/EIS.

Proposed Action and Alternative

The proposed project under consideration by NASA (*i.e.,* the proposed action) would include academic and research facilities, consisting of offices, laboratories, research-and-development (R&D) uses, and related amenities (collectively, ''Research and Office Uses''); conference center and related amenities (''Conference Uses''); ground-floor retail, food and beverage, maker spaces (*i.e.,* collaborative work spaces for using various tools and materials), and other complementary accessory uses that would be publicly accessible (collectively, ''Active Uses''); student/faculty housing, including associated amenities (''Student/Faculty Housing''); short-term lodging, including associated amenities (''Short-Term Lodging''); transportation networks; and open spaces, as well as landscaped spaces, to create a state-of-the-art research and education hub that shapes the future of technology and innovation and advance the UC Regents educational, scientific research, charitable, and other exempt purposes (within the meaning of Section 501(c)(3) of the United States Internal Revenue Code). The proposed project would facilitate the development and long-term operation of a collaborative research environment at the NASA ARC that supports NASA's position at the forefront of technological innovation and as a catalyst for space and aeronautical research.

The following two build alternatives and the NEPA No-Action Alternative are evaluated in the Draft EIS/EIR.

- CEQA Proposed Project (NEPA Build Alternative 1), which would create approximately 2.3 million square feet of Research and Office Uses, Conference Uses, Active Uses, Student/Faculty Housing, and Short-Term Lodging for visitors and conference attendees. This alternative would include approximately 2 million square feet for Research and Office Uses, 25,000 square feet for Conference Uses, 90,000 square feet for Active Uses, 130,000 square feet for Student/Faculty Housing, and 75,000 square feet for Short-Term Lodging.
- CEQA Reduced Density Alternative (NEPA Build Alternative 2), which would create approximately 1.4 million square feet of Research and Office Uses, Conference Uses, Active Uses, Student/Faculty Housing, and Short-Term Lodging for visitors and conference attendees. Compared to NEPA Build Alternative 1, this alternative would provide less space for Research and Office Uses. The NEPA Build Alternative 2 would include approximately 1.1 million square feet for Research and Office Uses, 25,000 square feet for Conference Uses, 90,000 square feet for Active Uses, 130,000 square feet for Student/Faculty Housing, and 75,000 square feet for Short-Term Lodging.
- NEPA No-Action Alternative, under which the proposed action would not be constructed and operated at the Project Site. The buildings within the Limits of Work that are currently operational would continue to be operational. The buildings within the Limits of Work that are currently vacant could be reoccupied consistent with the prior uses of the buildings (*e.g.,* ancillary buildings that supported Navy operations as well as industrial, storage, and utility facilities); reoccupying the vacant buildings would not require construction activity. The NADP, which established NASA's vision for long-term development of NASA ARC, also allows other types of uses at the Project Site. The NEPA No-Action Alternative could result in approximately 185,600 square feet of mixed uses, resulting in approximately 668 employees. The NEPA No-Action Alternative would not result in the reoccupation of any buildings formerly used for lodging; thus, the NEPA No-Action Alternative would not generate any new full-time residents or short-term occupants (*e.g.,* summer interns) within the Limits of Work.

Environmental Impact Statement Public Meeting

This notice of availability initiates the 45-day comment period for the draft joint EIR/EIS. UC Berkeley and NASA will hold one joint online public comment meeting to provide agencies and the public with an opportunity to provide oral and written comments on the draft joint EIR/EIS. The public meeting will be held exclusively through Zoom videoconference. Members of the public will be able to provide written comments during the meeting in the chat or verbally during an open mic session. The information for the public comment meeting is as follows:

- Public Comment Meeting
  Wednesday, May 13, 2026.
  Time: starting at 12:00 p.m.
  Meeting Link: *https://capitalstrategies.berkeley.edu/public-meetings.*

Denise Thaller,

Assistant Administrator (Acting), Office of Strategic Infrastructure, National Aeronautics and Space Administration.

[FR Doc. 2026–08210 Filed 4–27–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–025; NASA Docket Number: NASA–2026–0166]

Name of Information Collection: Safety and Health Measures and Mishap Reporting (NFS1852.223–70)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Revision of a previously approved collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by June 29, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket NASA–2026–0166.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for authorization to collect information under the NASA Federal Acquisition Regulation Supplement (NFS) Clause, 1852.223–70, Safety and Health Measures and Mishap Reporting. as defined in NASA Procedural Requirements (NPR) 8621.1 Mishap and Close Call Reporting, Investigating and Recordkeeping, and 2 quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses.

NASA is committed to effectively performing the Agency's communication function in accordance with Section 203(a)(3) of the National Aeronautics and Space Act of 1958 (as amended) dictates that NASA ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof'', and to enhance public understanding of, and participation in, the nation's aeronautical and space program.

II. Methods of Collection

Electronic.

III. Data

Title: Safety and Health Measures and Mishap Reporting (NFS1852.223–70).

OMB Number: 2700–0160.

Type of Review: Renewal of Information Collection.

Affected Public: NASA Contract Personnel.

Estimated Annual Number of Activities: 6.

Estimated Number of Respondents per Activity: 133.

Annual Responses: 798.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 2,394.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026–08262 Filed 4–27–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Request for Information

AGENCY: National Science Foundation.

ACTION: Request for information.

SUMMARY: The U.S. National Science Foundation (NSF) invites information, suggestions, and innovations to inform a comprehensive review of the Presidential Awards for Excellence in Mathematics and Science Teaching (PAEMST) program and the Presidential Awards for Excellence in Science, Mathematics, and Engineering Mentoring (PAESMEM) program. Together, the programs constitute NSF's Excellence Awards in Science and Engineering (EASE) investment. Details about the two programs can be found at *https://www.nsf.gov/honorary-awards/paemst* and *https://www.nsf.gov/honorary-awards/paesmem.* In July 2025, NSF announced a pause in the annual application and award cycles of the programs so that the agency can conduct a strategic review and planning process to reorient the programs for the future.

DATES: NSF must receive your comments by May 28, 2026.

ADDRESSES: Comments may be submitted using any of the following methods:

- *Web:* Responses can be submitted via *https://nsfevaluation.gov1.qualtrics.com/jfe/form/SV_85KQysAz92UZmlg.*
- *Email: RFI-EASE@nsf.gov.* Email submissions should be machine-readable and not be copy-protected. Submissions should include ''RFI Response: PAEMST/PAESMEM'' in the subject line.
- *Mail:* U.S. National Science Foundation, Directorate for STEM Education, Attn.: RFI on PAEMST/PAESMEM, Randolph Building, 401 Dulany St., Alexandria, VA 22314, USA.

FOR FURTHER INFORMATION CONTACT: Tyrslai Williams-Carter or Narcrisha Norman, Directorate for STEM Education, U.S. National Science Foundation, Randolph Building, 401 Dulany St., Alexandria, VA 22314; email *RFI-EASE@nsf.gov;* phone 703–292–8600.

SUPPLEMENTARY INFORMATION:

I. Background

The PAEMST and PAESMEM programs recognize the nation's best and brightest teachers and mentors in science, technology, engineering, and mathematics (STEM). Established by the White House, both programs are administered by NSF on behalf of the Office of Science and Technology Policy (OSTP). While the following paragraphs summarize the historical operation of the programs, through this RFI, NSF welcomes suggestions for changes that transform the programs.

The PAEMST award is the highest recognition that a kindergarten through 12th-grade STEM teacher may receive for outstanding teaching in the United States. These awards were established by Congress in 1983. Annually, up to 110 outstanding teachers from around the country are recognized for their passion, dedication, and impact in the classroom. Over 5,500 teachers have received the award to date.

STEM teachers in each state submit applications to the PAEMST program. The program receives and reviews the applications in two groups, K–6th grade teachers and 7th-12th grade teachers. Awardees are selected from each state, the District of Columbia, the Commonwealth of Puerto Rico, the Department of Defense Education Activity schools, and the U.S. jurisdictions (*i.e.,* American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

Each awardee receives $10,000 and a certificate signed by the President. Awardees are also invited to participate in a recognition ceremony in Washington, DC, which includes meetings with leaders in STEM education, research, and policy. After receiving the award, many awardees continue teaching in their classrooms, while others move to positions in school administration, become involved in preparing future teachers at the university level, or work in teacher professional development. Collectively, they reflect the expertise and dedication of America's STEM teaching corps, and

they demonstrate the positive impact of excellent teachers on student achievement.

The PAEMST application and award process consists of the following components:

Nomination --> Application --> State Review --> State Finalist Selection --> Application Refinement --> National Review --> Award Notification --> Award Announcement --> Awardee Recognition --> Awardee Engagement

PAEMST applicants are evaluated according to five ''dimensions'':

Dimension 1: Mastery of content appropriate for the grade level taught.

Dimension 2: Use of effective instructional approaches that are appropriate for the students in the classroom and that support student learning.

Dimension 3: Effective use of student assessments to evaluate, monitor, and improve student learning.

Dimension 4: Reflective practice and life-long learning to improve teaching and student learning.

Dimension 5: Opportunity, access, and leadership in education inside and outside the classroom.

The PAESMEM award serves as the nation's highest recognition of excellence in mentoring in STEM. It was established by the White House in 1995. Annually, up to 15 individuals and organizations are honored for their passion, dedication, and impact on mentoring, which supports the future productivity of the U.S. STEM workforce. Over 350 mentors have received the award to date.

Nominations (including self-nominations) are encouraged from all geographic regions of the United States. Individuals and organizations from the public and private sectors—including industry, academia, K–12, military and government, non-profit organizations, and foundations—are eligible. Exceptional STEM or STEM-related mentoring in both formal and informal settings is eligible for recognition. Each individual or organization selected for an award receives $10,000 and a certificate signed by the President. Awardees are also invited to participate in a recognition ceremony in Washington, DC, which includes meetings with leaders in STEM education, research, and policy. New awardees join a community of award-winning mentors and have opportunities to expand their impact on a national scale.

The PAESMEM application and award process consists of the following components:

Nomination --> Application --> National Review --> Award Notification --> Award Announcement --> Awardee Recognition --> Awardee Engagement

PAESMEM applicants are evaluated according to four ''dimensions'':

Dimension 1: Mentoring Philosophy and Strategies

Dimension 2: Assessment and Outcomes

Dimension 3: Reflective Practice

Dimension 4: Leadership and Sustainability

II. Solicitation of Comments: Reviewing the PAEMST and PAESMEM Programs

As part of NSF's commitment to supporting the development of a robust, high-quality STEM workforce in the United States, the agency wishes to continue to stimulate innovation and promote high-quality teaching at the K–12 level and mentoring across all levels. NSF seeks information to inform an assessment and update of the PAEMST and PAESMEM programs. In particular, NSF requests insights on exemplary practices and input on lessons learned from the programs; the information that the programs should require nominators and applicants to provide; and the criteria that the programs should use to determine which applicants/nominees should be selected to receive an award.

Responding to the questions below is voluntary; all questions are optional. If you choose to respond, please respond to *any* or *all* of the questions and respond with regard to *both* programs (PAEMST and PAESMEM) or *either* program.

1. Do you think that any components of the PAEMST and/or PAESMEM application and award processes should be revised to more effectively promote identification and recognition of the highest quality teachers and mentors from all types of institutions across the nation?

2. Do you think that any of the ''dimensions'' (outlined in the background section above) that are used to evaluate applicants/nominees should be revised or removed/eliminated? Should any new dimensions be considered? Please provide justification for the changes suggested.

3. How do you think applicants'/nominees' success in each dimension should be indicated in applications and assessed as part of the review process? In particular, how should the applicants/nominees demonstrate that they are using effective pedagogies, models, and frameworks to achieve success in teaching or mentoring for the communities they serve? How should they demonstrate the use of research and data to set goals, to monitor progress toward goals, to address gaps and defects in their practices, and to ensure success and impact?

4. How do you think applicants/nominees should demonstrate the effectiveness and impact of their efforts on the STEM workforce (including the teacher/faculty workforce)? Important elements of such efforts include a commitment to success for all students; promoting students' persistence in STEM and advancement in the STEM workforce; engaging in professional development; providing advice to colleagues and service to the community; building knowledge in STEM education; and exhibiting transparency regarding outcomes.

This is a request for information only. It is not a Notice of Funding Opportunity (NOFO) or a promise to issue a NOFO. Information and documents submitted in response to this RFI become the property of the U.S. Government and will not be returned.

Accessible Format: If you need this document in an accessible format, contact the person(s) listed under ''For Further Information Contact'' above for an accommodation. Please specify the format(s) that would meet your needs.

Electronic Access to This Document: The official version of this document is the version published in the **Federal Register**, which is available online at *https://www.federalregister.gov*.

(Authority: 42 U.S.C. 1861, *et seq.*)

Dated: April 24, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–08226 Filed 4–27–26; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 27, May 4, 11, 18, 25, and June 1, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please contact the

Reasonable Accommodations Resource by email at *Reasonable_Accommodations.Resource@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of April 27, 2026

There are no meetings scheduled for the week of April 27, 2026.

Week of May 4, 2026—Tentative

Tuesday, May 5, 2026

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, May 7, 2026

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Annie Ramirez: 301–415–6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of May 11, 2026—Tentative

There are no meetings scheduled for the week of May 11, 2026.

Week of May 18, 2026—Tentative

There are no meetings scheduled for the week of May 18, 2026.

Week of May 25, 2026—Tentative

There are no meetings scheduled for the week of May 25, 2026.

Week of June 1, 2026—Tentative

Friday, June 5, 2026

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (Public Meeting) (Contact: Rob Krsek: 301–415–1766)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: April 24, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–08236 Filed 4–24–26; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72–1031, 50–413, and 50–414; NRC–2026–1486]

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; Independent Spent Fuel Storage Installation; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an exemption to Duke Energy Carolinas, LLC (Duke), permitting Catawba Nuclear Station (CNS) to maintain one loaded transportable storage canister (TSC) and to load nine new TSCs in the MAGNASTOR® storage system at the CNS Units 1 and 2 independent spent fuel storage installation, beginning July 6, 2026, in a storage condition where the terms, conditions, and specifications in the Certificate of Compliance No. 1031, Amendment No. 15, are not met.

DATES: The exemption was issued on April 21, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1486 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–2026–1486. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT**, section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–0262; email: *John-Chau.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: April 24, 2026.

For the Nuclear Regulatory Commission.

Yoira Diaz-Sanabria,

Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety, and Safeguards.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 72–1031, 50–413, and 50–414

Duke Energy Carolinas, LLC Catawba Nuclear Station, Units 1 and 2 Independent Spent Fuel Storage Installation

I. Background

Duke Energy Carolinas, LLC (Duke) is the holder of Facility Operating

Licenses Nos. NPF–035 and NPF–052, which authorize operation of the Catawba Nuclear Station (CNS) in South Carolina, pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect.

Consistent with 10 CFR part 72, subpart K, ''General License for Storage of Spent Fuel at Power Reactor Sites,'' a general license is issued for the storage of spent fuel in an independent spent fuel storage installation (ISFSI) at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50. Duke is authorized to operate nuclear power reactors under 10 CFR part 50 and holds a 10 CFR part 72 general license for storage of spent fuel at the CNS ISFSI. Under the terms of the general license, Duke stores spent fuel at its CNS ISFSI using the MAGNASTOR® storage system in accordance with Certificate of Compliance (CoC) No. 1031, Amendment No. 15.

II. Request/Action

By letter dated March 19, 2026 (Agencywide Documents Access and Management System [ADAMS] Accession Nos ML26078A371), Duke requested an exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), 72.214, 72.154(b), and 72.174 that require CNS to comply with the terms, conditions, and specifications of CoC No. 1031, Amendment No. 15 (ML25112A096). If approved, Duke's exemption request would accordingly allow CNS to maintain one loaded and to load nine transportable storage canisters (TSCs) in the MAGNASTOR® storage system, beginning July 6, 2026, and thus, to load the systems in a storage condition where the terms, conditions, and specifications in CoC No. 1031, Amendment No. 15, are not met.

Duke currently uses the MAGNASTOR® storage system under CoC No. 1031, Amendment No. 15, for dry storage of spent nuclear fuel in TSC at the CNS ISFSI. The MAGNASTOR® storage system CoC provides the requirements, conditions, and operating limits necessary for use of the system to store spent fuel. In regard to neutron absorber materials, compliance with specifications such as minimum effective areal density (75% for Boral and 90% for borated aluminum/MMC) and a minimum ^{10}B loading of 0.040 g/cm^2, as outlined in the MAGNASTOR® technical specifications and final safety analysis report (FSAR), is verified through neutron transmission testing and acceptance inspections to ensure compliance with the CoC.

NAC International (NAC), the vendor of the MAGNASTOR® system, reported a fabrication deficiency on September 10, 2025 (ML25253A488) and provided an update on December 30, 2025 (ML25364A119), regarding certain neutron absorber panels supplied to NAC by 3M. These neutron absorber panels, installed by NAC in the MAGNASTOR® storage casks for use at the CNS ISFSI, did not meet requirements of the MAGNASTOR® technical specifications and FSAR. The deficiency occurred because test coupons were cut from non-approved areas of master sheets, violating established process controls. This error resulted in some coupons failing to meet the required ^{10}B areal density, impacting 39 panels (three per sheet across 13 sheet). These panels are associated with several TSCs at Duke's Catawba site, including one loaded and nine unloaded TSCs.

The impacted TSCs include one already loaded, MAG–TSC–418–158, and nine that Duke plans to load: MAG–TSC–418–155; MAG–TSC–418–156; MAG–TSC–418–157; MAG–TSC–418–159; MAG–TSC–418–160; MAG–TSC–418–161; MAG–TSC–418–162; MAG–TSC–418–166; and MAG–TSC–418–167. Duke plans to load two of these TSCs in July 2026: MAG–TSC–418–155 and MAG–TSC–418–156. As explained by Duke, the remaining seven impacted TSCs for upcoming campaigns, already purchased and scheduled for loading beyond 2026, are included in the scope of the request.

Duke submitted this exemption request to allow for the continued storage of one already loaded TSC, and future loading of nine TSC beginning on July 6, 2026, in the MAGNASTOR® storage system at the CNS ISFSI, even though, because of the neutron absorber panels' fabrication deficiency, the terms, conditions and specifications of the CoC will not be met.

III. Discussion

Pursuant to 10 CFR 72.7, ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines 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

This exemption would allow Duke to maintain loaded and to load TSC in the MAGNASTOR® storage system at its CNS ISFSI, beginning July 6, 2026, in a storage condition where the terms, conditions, and specifications in CoC No. 1031, Amendment No. 15, are not met. Duke is requesting an exemption from the provisions in 10 CFR part 72 that require the licensee to comply with the terms, conditions, and specifications of the CoC for the approved cask model it uses. Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. This authority to grant exemptions is consistent with the Atomic Energy Act of 1954, as amended, and is not otherwise inconsistent with NRC's regulations or other applicable laws. Additionally, no other law prohibits the activities that would be authorized by the exemption. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption, and the NRC is authorized to grant the exemption by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

This exemption would allow Duke to maintain one loaded and to load nine TSCs in the MAGNASTOR® storage system at its CNS ISFSI, beginning July 6, 2026, in a storage condition where the terms, conditions, and specifications in CoC No. 1031, Amendment No. 15, are not met. Minor manufacturing variations in neutron absorber panels, caused by misalignment during coupon cutting, affected ten TSCs, with three master sheets slightly below the minimum ^{10}B areal density requirement of 0.040 g/cm^2. NAC performed a safety assessment to evaluate the reduced ^{10}B conditions. In support of this exemption request, Duke asserts that issuance of the exemption would not endanger life or property or the common defense and security because NAC's safety assessment demonstrates that the reduced ^{10}B areal density results in a change in reactivity of less than 2 $\Delta k/\sigma$, which is not statistically significant, and the neutron absorber continues to perform within the licensing basis safety margins. TSC incorporates a welded closure to prevent the loss of contents and ensure public health and safety during long-term storage. When installed in a storage cask, the TSC benefits from structural protection, radiation shielding, and natural convection cooling, while the cask also provides environmental protection under adverse conditions. NAC's

calculation further demonstrates using the licensing basis method of evaluation and the lowest measured ^{10}B areal densities from the coupons cut in the wrong area of the master sheet, the ''reduced absorber sheet'' ^{10}B has a less than 2 $\Delta k/\sigma$, effect on system reactivity which is not statistically significant. NAC's calculation shows the lower neutron absorber result produces similar system reactivities for each fuel assembly and will therefore have the same relative effect.

Additionally, technical specifications require surface dose rate measurements before storage operations to ensure compliance with regulatory limits and detect potential misloads, providing an extra layer of safety assurance. NAC's analysis confirmed that even with reduced neutron absorber levels, the system remains subcritical under all analyzed conditions. NAC determined there are no impacts to thermal performance, structural integrity, shielding effectiveness, or confinement boundaries, and site boundary doses remain within regulatory limits. In addition, the combined radiation dose from all storage systems located at the CNS ISFSI will remain within the annual dose limits established in 10 CFR 72.104(a) for normal operations and anticipated operational occurrences and will also remain below the limits of 10 CFR 72.106 for design-basis accident conditions. Duke notes that the requested exemption does not affect any physical security requirements, nor does it impact the protection or defensive capabilities of the CNS ISFSI.

The NRC staff reviewed Duke's exemption request and concluded, as discussed below, that the proposed exemption from certain requirements of 10 CFR part 72 will not cause CoC No. 1031 to encounter conditions beyond those for which it has already been evaluated and demonstrated to meet the applicable safety requirements in 10 CFR part 72. The request does not change the fundamental design, components, or safety features of the storage system.

The staff's evaluation focused on the application and those calculations and analyses submitted with the application. The staff followed the guidance in NUREG–2215 to complete its safety evaluation. The NRC's staff evaluation includes criticality, materials, and operations safety areas, which the staff determined are the relevant technical disciplines affected by this exemption.

Criticality Evaluation

In support of its exemption request, Duke asserts that issuance of the exemption would not endanger life or property, or the common defense or security. Duke based this conclusion on NAC's safety assessment provided in Calculation 12418–6002, ''MAGNASTOR Criticality Evaluation for Duke Catawba Reduced Absorber Sheet B–10 Content,'' which evaluated the effect of reduced ^{10}B areal density in certain neutron absorber sheets. NAC's analysis demonstrates that, when applying the licensing-basis method of evaluation and using the lowest measured ^{10}B areal densities obtained from coupons cut from an incorrect portion of the master sheet, the resulting change in reactivity is less than $2\Delta k/\sigma$. NAC concluded, and NRC staff confirmed in its own safety evaluation, that this change is not statistically significant. NAC's calculation further shows that the reduced absorber sheet ^{10}B values produce system reactivities comparable to those obtained using fully compliant absorber material, and therefore the reduced boron content yields no meaningful change in relative reactivity.

NRC staff notes that the MAGNASTOR® system design basis requires a minimum neutron absorber content of 0.040 g/cm^2 ^{10}B. The reduced ^{10}B content values used in the analysis were derived from destructive testing of three coupons taken from the affected master sheets. For coupon C89842, two absorber panels installed in MAG–TSC–418–167 had a minimum measured ^{10}B areal density of 0.03910 g/cm^2. Coupons C89789–1 and C89810–1 showed minimum measured values of 0.03994 g/cm^2 and were used in the remaining affected TSCs. Although these values are slightly below the nominal ^{10}B requirement, staff noted that the measurements trend toward the design basis 0.040 g/cm^2 specification. Due to limitations arising from the cutting pattern of the master sheet, insufficient material remained to definitively confirm compliance. Accordingly, NAC performed a criticality analysis using the measured reduced boron values for each affected TSC.

For the two absorber sheets affected in MAG–TSC–418–167, NAC modified the licensing-basis MCNP input files to explicitly model the reduced ^{10}B areal density of 0.03910 g/cm^2, as described in Figure 4–1 of the calculation package, after applying the MAGNASTOR® design assumption that credits only 90 percent of the nominal boron content as illustrated in Figure 6–1. For the remaining nine TSCs, NAC modeled all absorber sheets using the reduced 10B value of 0.03994 g/cm^2, adjusting only the absorber material density and composition.

The NRC staff reviewed the exemption request, including NAC's criticality evaluation for the MAGNASTOR® TSCs containing absorber sheets with reduced ^{10}B content. Based on the information provided, the staff finds that NAC appropriately modified the licensing-basis analyses to account for the reduced boron areal density in the affected absorber panels. NAC demonstrates, and the staff confirms, that all ten affected TSCs remain adequately subcritical. The changes in reactivity resulting from the reduced boron content are less than $2\Delta k/\sigma$ for all evaluated configurations, which the staff concludes is not statistically significant. Considering the limited number of TSCs affected, the conservatism inherent in the MAGNASTOR® Amendment No. 15 design-basis analyses, and the results of NAC's revised evaluations, the staff finds, with reasonable assurance, that the affected MAGNASTOR® TSCs meet the criticality safety requirements of 10 CFR part 72.

Materials Evaluation

In support of its exemption request, Duke cited NAC's analysis which showed that even when the material properties criteria for the borated metal matrix composite neutron absorbing panels at issue is altered to accommodate the fabrication deficiency, materials safety is maintained. NAC identified 13 master sheets (39 panels in total) that were not fabricated in accordance with their prescribed processes, resulting in ten TSCs being fabricated with certain panels that may not meet the 0.04 g/cm^2 required ^{10}B minimum actual areal density, as described in Table 8.8–1 of the FSAR. NAC performed additional neutron attenuation testing of affected neutron panels, as documented in NAC Surveillance Report 25–S–21. As a result of the findings of this additional testing, NAC proposed using the following ^{10}B areal density values for demonstrating the acceptability of the fabricated neutron absorbing panels in their criticality evaluation of these ten TSCs:

- Two sheets in the basket at 0.03910 g/cm^2 boron 10.
- All sheets in the basket at 0.03994 g/cm^2 boron 10.

The NRC staff reviewed the testing methodology and results in NAC Surveillance Report 25–S–21 and determined that these values of ^{10}B areal density are bounding of the results and are appropriate for the evaluation of the affected TSCs. Additionally, the staff reviewed the exemption request and

determined that granting the request would not impact the material properties or critical design characteristics of the borated metal matrix composite neutron absorbing panels. Per the above discussion, the NRC staff finds, with reasonable assurance, the material properties of the neutron absorbing materials in the exemption request acceptable and that the affected MAGNASTOR® TSCs meet the materials safety requirements of 10 CFR part 72.

Operations

The NRC staff evaluated whether the identified condition affects operating procedures associated with fuel loading and storage operations. The exemption request does not propose changes to loading procedures, fuel selection criteria, loading configurations, or administrative controls credited in the FSAR. In addition, the exemption does not change the configuration or function of the neutron absorber panels within the fuel basket.

Based on the information provided by Duke in the exemption request and supporting correspondence, certain neutron absorber panel material verification activities did not fully demonstrate conformance with the specified boron content requirements. Specifically, NAC indicated that some test coupons used for boron content verification were obtained from non-representative locations within absorber panel sheets and that certain supplier oversight activities associated with the testing laboratory did not fully meet established quality assurance program requirements. The staff notes that this condition represents a fabrication and procurement control issue rather than a loss of safety function.

Based on its review, the NRC staff concludes that the identified condition does not necessitate changes to the procedures used for loading or storing spent fuel in the affected TSCs. Considering the maintained margin to subcriticality demonstrated in the supporting analyses, along with the corrective actions described by NAC, the staff finds that there is reasonable assurance that granting the exemption will continue to support safe operation of the facility and compliance with applicable regulatory requirements.

C. The Exemption Is Otherwise in the Public Interest

The proposed exemption would allow the already loaded TSC in the MAGNASTOR® storage system to remain in storage at the Catawba ISFSI and would authorize future use of the nine affected TSCs in planned loading campaigns, beginning July 6, 2026, in storage conditions where the terms, conditions, and specifications in CoC No. 1031, Amendment No. 15, are not met. According to Duke, the exemption is in the public interest because it would maintain the safe, passive dry-storage configuration, and avoid unnecessary fuel handling.

Duke states that dry storage provides a passive, stable inherently safe configuration, and leaving the already loaded canister undisturbed eliminates any additional fuel-handling risks, aligning with the public interest in minimizing operational dose and fuel handling events. Duke explains that approval of this exemption prevents unnecessary unloading and reloading of spent fuel, which would increase radiation exposure and operational risk without a corresponding safety benefit. It also supports timely fuel offload from the reactor, ensuring continued safe operation.

Duke states that timely transfers of spent fuel to dry storage supports timely transfers of spent fuel from the spent fuel pool (SFP), which maintains adequate SFP capacity, supports heat-load management on the cooling system, and limits additional fuel-handling operations that could increase worker dose or the potential for handling events. Maintaining SFP margin ensures Duke can offload the reactor when needed and conduct refueling activities efficiently, allowing the reactor's continued safe operation.

Duke further explains that without the ability to use the identified canisters, upcoming loading campaigns could be delayed or disrupted and the margin to SFP margin in the CNS SFP would be significantly reduced, creating operational challenges in managing SFP inventory and conducting safe fuel-handling operations during outages. Loading campaigns rely on limited specialized personnel and equipment scheduled years in advance. As Duke explains, these specialty resources support multiple competing activities and priorities. The available windows to complete cask loading campaigns are limited and delays have a cascading impact on other scheduled activities. Delays could have broader operational impacts and thus impair future reactor safety to the detriment of the public interest.

Duke states that if the exemption is not approved, the loading campaign would need to be rescoped as designed, because this would constitute a substantial change in planned loading sequence affecting the overall campaign, the SFP configuration, and associated analyses. This would interfere with the safe operation of the reactor.

For the reasons described by Duke in the exemption request, the NRC staff agree that it is in the public interest to grant the exemption. If the exemption is not granted, for the already loaded TSC, Duke would be required to unload and reload the spent fuel into a new TSC to bring it in compliance with the CoC, creating safety risks. For the nine TSCs scheduled for future loading, in order to comply with the CoC, Duke would have to keep spent fuel in the spent fuel pool if it is not permitted to use the MAGNASTOR® storage system during loading and transport operations, thus impacting Duke's ability to effectively manage the SFP margin, pool capacity and reactor fuel offloading. Moreover, should spent fuel pool capacity be reached, the ability to refuel the operating reactor unit is challenged. The inability to load the TSCs could also challenge spent fuel heat removal and impact the availability of the specialized resources and equipment which is planned years in advance and needed to support competing fuel loading and operational activities at CNS, including spent fuel pool clean-up and refueling outages. Thus, if the nine impacted TSCs could not load, there may be consequences impacting safe, continued reactor operations to the detriment of the public interest.

Therefore, for these reasons, the staff concludes that granting the exemption is in the public interest.

Environmental Consideration

The NRC staff also considered whether there would be any significant environmental impacts associated with the exemption. For this proposed action, the NRC staff performed an environmental assessment pursuant to 10 CFR 51.30, ''Environmental Assessment.'' The environmental assessment concluded that the proposed action would not significantly impact the quality of the human environment. The NRC staff concluded that the proposed action would not result in any changes in the types or amounts of any radiological or non-radiological effluents that may be released offsite, and there would be no significant increase in occupational or public radiation exposure because of the proposed action. The environmental assessment and the finding of no significant impact was published on April 21, 2026 (91 FR 21330).

IV. Conclusion

Based on these considerations, the NRC has determined that, pursuant to 10 CFR 72.7, 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 NRC grants Duke an exemption from the requirements of §§ 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), and 72.214, 72.154(b), and 72.174 with respect to the continued storage of MAG–TSC–418–158 and future loading of MAG–TSC–418–155, 156, 157, 159, 160, 161, 162, 166, and 167 in the MAGNASTOR® storage system beginning in July 6, 2026.

This exemption is effective upon issuance.

Dated: April 21, 2026.

For the Nuclear Regulatory Commission.

/RA/

Yoira Diaz Sanabria,

Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2026–08219 Filed 4–27–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261; NRC–2025–0076]

Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit 2; Subsequent License Renewal and Record of Decision

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Subsequent Renewed Facility Operating License No. DPR–23 to Duke Energy Progress, LLC (Duke) for H.B. Robinson Steam Electric Plant, Unit 2 (Robinson). In addition, the NRC has prepared a record of decision (ROD) that supports the agency's decision to issue Subsequent Renewed Facility Operating License No. DPR–23.

DATES: The NRC issued Subsequent Renewed Facility Operating License No. DPR–23 on April 23, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–0076 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–2025–0076. 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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Yoo, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8583; email: *Mark.Yoo@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Notice is hereby given that the NRC has issued Subsequent Renewed Facility Operating License No. DPR–23 to Duke for Robinson. Duke is the operator of the facility. Subsequent Renewed Facility Operating License No. DPR–23 authorizes Duke to operate Robinson at a reactor core power level not in excess of 2,339 megawatts thermal, in accordance with the provisions of the Robinson license and technical specifications. Notice is also given that the ROD that supports the NRC's decision to issue Subsequent Renewed Facility Operating License No. DPR–23 is available, and its location is listed in the ''Availability of Documents'' section of this document.

As discussed in the ROD and the final supplemental environmental impact statement (SEIS), published as NUREG–1437, Supplement 13, Second Renewal, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Subsequent License Renewal for H.B. Robinson Steam Electric Plant, Unit No. 2, Final Report,'' dated March 2026, the final SEIS documents the NRC staff's environmental review, including the recommendation that the adverse environmental impacts of subsequent license renewal (SLR) for Robinson are not so great that preserving the option of SLR for energy-planning decision-makers would be unreasonable. This recommendation is based on (1) the analysis and findings in the NRC's Generic Environmental Impact Statement for License Renewal of Nuclear Plants, (2) information provided in the environmental report submitted by Duke, (3) the NRC staff's consultation with Federal, State, and local governmental agencies and Indian Tribes, (4) the NRC staff's independent environmental review, and (5) the NRC staff's consideration of public comments received during the scoping process and on the draft SEIS.

Robinson consists of one Westinghouse three-loop pressurized-water reactor located near Hartsville, South Carolina. Duke submitted its SLR application for Robinson on April 1, 2025, which it supplemented by letters through October 1, 2025 (see the ''Availability of Documents'' section of this document). The NRC staff has determined that Duke's SLR application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. As required by the Act and NRC regulations in title 10 of the *Code of Federal Regulations* (10 CFR), Chapter I, ''Nuclear Regulatory Commission,'' the NRC has made appropriate findings, which are set forth in the subsequent renewed license.

Notice of the NRC's acceptance for docketing of the SLR application and an opportunity to request a hearing was published in the **Federal Register** on May 8, 2025 (90 FR 19535). A notice of intent to conduct environmental scoping was published on May 22, 2025 (90 FR 21952). In April 2026, the NRC staff issued its safety evaluation concerning the Robinson SLR application. In December 2025, the NRC staff published a draft SEIS for public comment, providing the preliminary results of the staff's environmental review of the Robinson SLR application. A notice of availability of the draft SEIS was published in the **Federal Register** on January 9, 2026 (91 FR 1007). In March 2026, the NRC staff published the final SEIS; a notice of issuance was published in the **Federal Register** on March 20, 2026 (91 FR 13644).

For further details with respect to this action, see (1) Duke's SLR application for Robinson, dated April 1, 2025, as supplemented by letters dated through October 1, 2025, (2) the NRC's safety

evaluation, dated April 2026, (3) the NRC's final SEIS, dated March 2026, and (4) the NRC's ROD, dated April 23, 2026.

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document description	ADAMS accession No.
H.B. Robinson Steam Electric Plant, Unit 2, Application for Subsequent Renewed Operating Licenses, dated April 1, 2025.	ML25091A290 (Package).
NUREG–1437, Revision 2, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' Volumes 1–3, dated August 2024.	ML24087A133 (Package).
Supplement No. 1—Changes to the Robinson Unit 2 Subsequent License Renewal Application, dated August 28, 2025.	ML25240B656.
Supplement No. 2—Changes to the Robinson Unit 2 Subsequent License Renewal Application, dated October 1, 2025.	ML25274A131.
''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 13, Second Renewal, Regarding Subsequent License Renewal for H.B. Robinson Steam Electric Plant, Unit No. 2, Draft Report for Comment,'' dated December 2025.	ML25344A144.
Safety Evaluation Related to the Subsequent License Renewal of H.B. Robinson Steam Electric Plant, Unit 2, dated April 2026.	ML26089A378 (Package).
''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 13, Second Renewal, Regarding Subsequent License Renewal for H.B. Robinson Steam Electric Plant, Unit No. 2, Final Report,'' dated March 2026.	ML26062A118.
Record of Decision, Subsequent License Renewal Application for H.B. Robinson Steam Electric Plant, Unit 2, dated April 23, 2026.	ML26044A014.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: April 23, 2026.

For the Nuclear Regulatory Commission.

Michele Sampson,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–08200 Filed 4–27–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–219 and K2026–217]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 1, 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. 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.

[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).

II. Public Proceeding(s)

1. *Docket No(s).:* MC2026–219 and K2026–217; *Filing Title:* USPS Request to Add Priority Mail Contract 955 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 23, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* May 1, 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. 2026–08220 Filed 4–27–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105300; File No. SR–SAPPHIRE–2026–12]

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 2050, Trading Floor Order Price Protection Mechanisms and Risk Controls

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2026, MIAX Sapphire, LLC (''MIAX Sapphire'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 2050, to establish a Trading Floor Order Price Protection Mechanisms and Risk Controls rule, and within proposed Rule 2050, adopt the Trading Floor Price Collar Protection (''TFPCP'') feature.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-sapphire/rule-filings,* and at the Exchange's principal office.

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

On July 15, 2024, the U.S. Securities and Exchange Commission (''Commission'') approved the Exchange's Form 1 application to register as a national securities exchange under Section 6 of the Exchange Act.[3] At that time, the Exchange adopted its Rulebook which established rules for the physical Trading Floor.[4] The Trading Floor supports Qualified Floor Orders (''QFOs'') and complex Qualified Floor Orders (''cQFOs'').[5] The Exchange provides a price protection feature for these order types, the Trading Floor Price Collar Protection (''TFPCP'') feature, and is proposing to harmonize the Exchange's Rulebook with the operation of the Exchange's System[6] by describing the operation of the TFPCP feature in detail. The price protection feature is designed to help maintain a fair and orderly market by helping to mitigate the potential risk of validating trades at prices that are extreme and potentially erroneous.

The TFPCP feature prevents QFOs and cQFOs from trading at extreme and potentially erroneous prices by establishing a price range outside of which the order will not be validated and instead will be invalidated and returned to the Floor Broker[7] by the System. Accordingly, the Exchange proposes to adopt new Rule 2050, Trading Floor Order Price Protection Mechanisms and Risk Controls, and to adopt new paragraph (a), Trading Floor Price Collar Protection (''TFPCP'') to the Rule.

Trading Floor Price Collar Protection

The Exchange has established default TFPCP settings and the TFPCP feature is applied to all QFOs and cQFOs, unless an instruction to ignore the TFPCP is provided in the order. If the price of a QFO or cQFO is greater (less) than the opposite side NBO (NBB) or cNBO (cNBB) plus (minus) the TFPCP value when the QFO or cQFO is received by the System, the TFPCP feature will be triggered and the QFO or cQFO will be invalidated and returned to the Floor Broker by the System. Each Floor Broker may establish TFPCP values to be applied to all QFOs or cQFOs by MPID, which will override the default Exchange settings. The Exchange has developed a form for Floor Brokers to use in order to communicate their desired TFPCP settings to the Exchange. A Floor Broker may populate the form with their TFPCP settings and return the form to the Exchange's Help Desk.[8] The Help Desk will then configure the Floor Broker's TFPCP settings into the System by MPID.

The Exchange default setting for QFOs is $0.10. A Floor Broker may provide a TFPCP value between $0.00 and $99.99 to use in place of the Exchange default setting. The Exchange default setting for cQFOs is equal to the greater of $2.50 or 1% of the cQFO price. A Floor Broker may provide a TFPCP value between $0.01 and $99.99 to use in place of the Exchange default setting and a percentage TFPCP value between 0.1% and 20% to be multiplied by the cQFO price. The Exchange will use the greater of the Floor Broker

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 100539 (July 15, 2024), 89 FR 58848 (July 19, 2024) (File No. 10–240) (order approving application of MIAX Sapphire, LLC for registration as a national securities exchange). (Exhibit B) (establishing rules for the physical Trading Floor).

[4] The term ''Trading Floor'' or ''Floor'' means the physical trading floor of the Exchange located in Miami, Florida. The Trading Floor shall consist of one ''Crowd Area'' or ''Pit'' where Floor Participants will be located and option contracts will be traded. The Crowd Area or Pit shall be marked with specific visible boundaries on the Trading Floor, as determined by the Exchange. A Floor Broker must represent all orders in an ''open outcry'' fashion in the Crowd Area. *See* Exchange Rule 100.

[5] *See* Exchange Rule 2040.

[6] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[7] A Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Trading Floor, of accepting and handling options orders. A Floor Broker must be registered as a Floor Participant prior to registering as a Floor Broker. *See* Exchange Rule 2015.

[8] The term ''Help Desk'' means the Exchange's control room consisting of Exchange staff authorized to make certain trading determinations on behalf of the Exchange. The Help Desk shall report to and be supervised by a senior executive officer at the Exchange. *See* Exchange Rule 100.

provided TFPCP value, or the percentage TFPCP value multiplied by the cQFO price, in place of the Exchange default setting.

The following examples illustrate the operation of the TFPCP feature on QFOs and cQFOs using the Exchange's default settings.

Example 1 (QFO NBO)

Default TFPCP setting $0.10
NBBO:[9] $1.40 × $.1.60
TFPCP is $1.30 × $1.70
Order #1 received: QFO Buy @$1.71

The TFPCP feature is triggered as the $1.71 limit price of the order is greater than the TFPCP protection of $1.70 and the QFO is invalidated and returned to the Floor Broker by the System.

Example 2 (QFO NBB)

Default TFPCP setting $0.10
NBBO: $1.40 × $.1.60
TFPCP is $1.30 × $1.70
Order #1 received: QFO Sell @$1.29

The TFPCP feature is triggered as the $1.29 limit price of the order is less than the TFPCP protection of $1.30 and the QFO is invalidated and returned to the Floor Broker by the System.

Example 3 (cQFO cNBO)

Default TFPCP setting = greater of either (a) $2.50; or (b) 1% of the cQFO price
cNBBO:[10] $300 × $325
Order #1 received: cQFO Buy @$329
TFPCP setting is greater of either (a) $2.50 or (b) 1% × $329 or $3.29
TFPCP is: $296.71 × $328.29

The TFPCP feature is triggered as the $329 price of the order is greater than the TFPCP protection of $328.29 and the cQFO is invalidated and returned to the Floor Broker by the System.

Example 4 (cQFO cNBB)

Default TFPCP setting = greater of either (a) $2.50; or (b) 1% of the cQFO price
cNBBO: $100 × $125
Order #1 received: cQFO Sell @$97.49
TFPCP setting is greater of either (a) $2.50 or (b) 1% × $97.49 or $0.9749
TFPCP is: $97.50 × $127.50

The TFPCP feature is triggered as the $97.49 price is less than the TFPCP protection of $97.50 and the cQFO is invalidated and returned to the Floor Broker by the System.

In all the examples above when the QFO (cQFO) is invalidated and returned to the Floor Broker, the Floor Broker may either: (i) re-execute the QFO (cQFO) at a price at or within the TFPCP setting and reenter the QFO (cQFO) into the System; (ii) re-execute the QFO (cQFO) and enter it into the System with an instruction to ignore the TFPCP feature or; (iii) not re-enter the QFO (cQFO) into the System. The Exchange believes that invalidating the QFO (cQFO) and returning it to the Floor Broker will afford the Floor Broker the opportunity to evaluate and confirm the price of the QFO (cQFO).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(1)[14] requirement that it be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Members[15] and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Exchange's Rules.

The Exchange believes that the Trading Floor Price Collar Protection feature is consistent with the Act because it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by avoiding the execution of Qualified Floor Orders and complex Qualified Floor Orders at prices that are significantly away from the NBBO or cNBBO.

The Exchange offers a number of price protections in its electronic market that establish minimum and maximum trading ranges that similarly prevent executions at potentially erroneous prices. Specifically, the Exchange provides the MIAX Strategy Price Protection (''MSPP'')[16] for complex orders and a Complex MIAX Sapphire Price Collar Protection,[17] in addition to Butterfly Spread Variance Price Protection,[18] Calendar Spread Variance Price Protection,[19] and Vertical Spread Variance Price Protection.[20] The Exchange believes that providing similar price protection parameters and mechanisms to prevent executions on the Trading Floor from being validated at potentially erroneous prices promotes the protection of investors and the public interest and perfects the mechanism of a free and open market and national market system.

The Exchange further believes that the Trading Floor Price Collar Protection feature protects investors and the public interest in that it is reasonably designed to provide Floor Brokers with additional tools to assist them in managing their risk exposure. Specifically, the Trading Floor Price Collar Protection allows Floor Brokers to mitigate the potential risks associated with entering QFOs and cQFOs that result in the validation of trades at prices that are extreme and potentially erroneous. The Exchange notes that Floor Brokers may choose to ignore the TFPCP feature on an order-by-order basis by providing an instruction in the order message either upon submission or re-submission of the order.

The Exchange believes the proposed changes remove impediments to and

[9] The term ''NBBO'' means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[10] The cNBBO is calculated using the NBBO for each component of a complex strategy to establish the best net bid and offer for a complex strategy. *See* Exchange Rule 518(a).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] 15 U.S.C. 78(b)(1).

[15] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[16] The System provides a MIAX Strategy Price Protection (''MSPP'') for complex orders. The MSPP establishes a maximum protected price for buy orders and a minimum protected price for sell orders. *See* Exchange Rule 532(c)(5).

[17] The System provides a Complex MIAX Price Collar (''MPC'') price protection feature for complex orders. The MPC is an Exchange-wide price protection mechanism under which a complex order to sell will not be displayed or executed at a price that is lower than the opposite side cNBBO bid at the time the MPC is assigned by the System (*i.e.,* upon receipt or upon opening) by more than a specific dollar amount expressed in $0.01 increments (the ''MPC Setting''), and under which a complex order to buy will not be displayed or executed at a price that is higher than the opposite side cNBBO at the time the MPC is assigned by the System by more than the MPC Setting (each the ''MPC Price''). *See* Exchange Rule 532(c)(6).

[18] *See* Exchange Rule 532(c)(2).

[19] *See* Exchange Rule 532(c)(3).

[20] *See* Exchange Rule 532(c)(4).

perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by describing available risk protection functionality for Floor Brokers in the Exchange's Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will foster competition by clearly describing the operation of the TFPCP feature in the Exchange's Rulebook therefore providing Floor Brokers additional detail and clarity regarding the use and operation of a risk management tool.

Additionally, the Exchange believes that the proposed rule change should promote competition as it is designed to allow Floor Brokers greater flexibility and control of their risk exposure. The Exchange does not believe the proposed rule change will impose a burden on intra-market competition as the TFPCP feature is equally applied to all QFO and cQFO orders, and may be disabled by Floor Brokers on an order-by-order basis. Thus, the Exchange does not believe that the TFPCP feature creates any significant impact on competition.

The Exchange believes that the proposed rule change should promote inter-market competition as the TFPCP feature is designed to allow Floor Brokers greater flexibility and control over their risk exposure in order to protect them from market risk or events that may increase their exposure in the market. Additionally, the TFPCP should instill additional confidence in market participants that submit orders to the Exchange that there are adequate risk protections in place, and thus should encourage market participants to submit additional order flow to the Exchange, thereby promoting inter-market competition.

For all the reasons stated, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6) [22] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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 Act [23] and Rule 19b–4(f)(6) [24] thereunder.

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–SAPPHIRE–2026–12 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–SAPPHIRE–2026–12. 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–SAPPHIRE–2026–12 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

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[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105295; File No. SR–CboeEDGX–2026–025]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Codify a User Fee Exemption and Amend the Definition of Non-Display Usage

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 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 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'') proposes to amend its Fees Schedule to codify a User Fee exemption and amend the definition of Non-Display Usage. The text of the proposed rule change is provided in Exhibit 5.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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/* [sic]), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (i) codify a User Fee exemption to the Market Data section of its fee schedule and (ii) amend the definition of Non-Display Usage.[3] As discussed further below, the User Fee exemption is currently outlined in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify this in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[4] for the market data products listed on the Exchange's fee schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor and Display Usage within its Fee Schedule for clarity; both definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[5] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[6] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee as sets forth in the Exchange's fee schedule.

The second change the Exchange seeks to make, is to amend the definition of Non-Display Usage. The existing definition covers any method of access of a Data Product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons. The Exchange now seeks to amend this definition to (i) include the facilitation of access and (ii) add that the purpose must not be solely in support of display for a natural person.

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.[7] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses[10] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that proposing to codify this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors[11] only distribute Data

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CboeEDGX–2026–016). On April 13, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's fee schedule, as applicable.

[5] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* EDGX Equities Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

[11] Uncontrolled Distributors are defined as Distributors that do not control the entitlements of and display of information to its Users. *See* EDGX Equities Fee Schedule.

Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the User Fee exemption) codifying the definitions of Display Usage and Controlled Distributors in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the proposed definition change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The change is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, under the prior definition, a firm that directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy would be required to procure a license for Non-Display. However, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to insert this definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[12]

[12] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy-NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the revised definition is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] 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–2026–025 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–2026–025. 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–2026–025 and should be submitted on or before May 19, 2026.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08181 Filed 4–27–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105301; File No. SR–CBOE–2026–040]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Codify a User Fee Exemption and the Amended Definition of ''Non-Display Usage'' in Its Fee Schedule

April 23, 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 April 21, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fee Schedule to codify a User fee exemption and the amended definition of ''Non-Display Usage'' in its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to codify (i) an existing User Fee exemption to the Market Data section of its Fee Schedule and (ii) the amended definition of ''Non-Display Usage'' under the Market Data section of its Fee Schedule.[3] As discussed further below, both the User Fee exemption and the amended definition of Non-Display Usage are currently contained in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify both concepts in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[4] for the market data products listed on the Exchange's Fee Schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor, Display Usage and Uncontrolled Distributor[5] within its Fee Schedule for clarity; both definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[6] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[7] The Exchange now proposes to specify in its Fee schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

Second, the Exchange also proposes to codify the amended definition of ''Non-Display Usage'' as any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons.[8] The Exchange previously applied the prior definition of Non-Display Usage that was in the Cboe Global Markets North American Data Policies. This definition stated that Non-Display Usage meant any method of accessing a Market Data product that involved access or use by a machine or automated device without access or use of a display by a natural person or persons. This definition was also previously in the Exchange's affiliated equities exchanges fee schedules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CBOE–2026–030). On April 13, 2026, the Exchange withdrew that filing and submitted SR–CBOE–2026–031. On April 21, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's Fee Schedule, as applicable.

[5] Uncontrolled Distributors are defined as External Distributors that do not control the entitlements of and display of information to its Users. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Uncontrolled Distributors'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[7] *See* Cboe Options Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[8] The term ''Non-Display Usage'' is defined in Cboe Global Markets' North American Data Policies. *See* Cboe Global Markets North American Data Policies. The term is also defined in the fee schedules of the Exchange's affiliated equities exchanges. *See e.g.,* Cboe BYX Equities Fee Schedule. The Exchange now proposes to codify the definition of ''Non-Display Usage'' in the Definitions section of Market Data Fees in the Exchange's Fees Schedule for transparency and clarity. The Exchange seeks to adopt the definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies.

The proposed definition adopted in Cboe Global Markets North American Data Policies (effective April 1, 2026) now states that, Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As discussed further below, the proposed definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs'').

In conjunction with the proposed revision to the Non-Display Usage definition, the Exchange proposes to codify this amended, up-to-date version to be within its Fee Schedule. The Exchange's affiliated options and equities exchanges are also codifying and amending this definition (as applicable) in their respective fee schedules.

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.[9] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the proposed exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses [12] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that codifying this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the proposed exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that codifying the definitions of Display Usage Controlled Distributor, and Uncontrolled Distributor in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the codification of the amended definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies is designed to (i) provide transparency by including this definition in the Fee Schedule directly (as opposed to only having this within the Cboe Global Markets North American Data Policies) and (ii) provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange Data through the proposed amendments to the prior definition that was applied (and was previously in the Cboe Global Markets North American Data Policies).

Specifically, the amended definition of Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As noted above, the prior definition that was used (and was contained in Cboe Global Markets' North American Data Policies) stated that: Non-Display Usage means any method of accessing a Market Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.

The codification of the amended definition of ''Non-Display Usage,'' and other terms,[13] are intended to add transparency and clarity to the Exchange's Fee Schedule. The proposed amended definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, the prior definition in Cboe Global Markets North American Data Policies did not include ''facilitating access to'' in the Non-Display Usage definition. This meant that if a firm directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy, it would be required to procure a license for Non-Display. However, under the prior definition, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to include this in its amended definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

[13] *Supra* notes 4, 5 and 6.

that this update better aligns itself with industry standards as well.[14]

The Exchange notes that all the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the amended definition of ''Non-Display Usage'' that it proposes to include in its Fee Schedule is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants. Adding this definition to the Fee Schedule only provides further clarity and transparency for market participants. As noted above, the Exchange's affiliated equities exchanges already have a ''Non-Display Usage'' definition codified within their respective schedules. In conjunction with this filing, the Exchange's affiliated equities exchanges are also proposing to amend the existing Non-Display Usage definition within their fee schedules to align with the revised Cboe North America Market Data Policies and with the Exchange's proposed definition. The Exchange's affiliated options exchanges are also proposing to adopt this updated definition within their fee schedules as well.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 [16] 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–CBOE–2026–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBOE–2026–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2026–040 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105293; File No. SR–NASDAQ–2026–032]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 5711(d) To Modify the Generic Listing Standards for Commodity-Based Trust Shares

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 14, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[14] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy-NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 5711(d) to modify the generic listing standards for Commodity-Based Trust Shares (as defined below) (1) to require at least 85% of the net asset value (''NAV'') of the Commodity-Based Trust Shares holdings to consist of assets that are already allowed under the generic listing standards, and (2) to amend the definition of commodity to clarify the scope of commodities covered under the generic listing standards.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange previously received approval to adopt generic listing standards (''GLS'') for Commodity-Based Trust Shares.[3] The Exchange proposes to amend Rule 5711(d) to modify the GLS for Commodity-Based Trust Shares[4] to require at least 85% of the NAV of the Commodity-Based Trust Shares holdings to consist of assets that are already allowed under the GLS. The Exchange also proposes to amend the definition of commodity[5] to clarify the scope of commodities covered under the GLS.

Today, the GLS in Rule 5711(d)(iii)(A)(3) contemplates that Commodity-Based Trust Shares may hold one or more commodities or commodity-based assets,[6] and in addition to such commodities or commodity-based assets, may hold securities, cash, and cash equivalents.[7] Rule 5711(d)(iv) sets forth specific eligibility requirements that the commodity, commodity-based asset, and security holdings of Commodity-Based Trust Shares must meet on an initial and, with the exception of subparagraph (A)(3) as described below, on a continuing basis. In particular, subparagraph (A) sets forth the eligibility requirements for commodity and commodity-based asset holdings of Commodity-Based Trust Shares. Specifically, each commodity or commodity that underlies a commodity-based asset held by the Trust must fall into at least one of the following categories in subparagraphs (A)(1)–(3):

- (1) the commodity trades on a market that is an Intermarket Surveillance Group (''ISG'') member; provided that the Exchange may obtain information about trading in such commodity from the ISG member; or
- (2) the commodity underlies a futures contract that has been made available to trade on a designated contract market for at least six months; provided that the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG, with such designated contract market; or
- (3) on an initial basis only, an exchange-traded fund designed to provide economic exposure of no less than 40% of its NAV to the commodity lists and trades on a national securities exchange.

The current GLS therefore requires that all commodity or commodity-based asset holdings of the Commodity-Based Trust Share must qualify under one or more of the above eligibility criteria. These criteria are generally designed to ensure that the Exchange can obtain information regarding trading in the commodities or commodities underlying commodity-based assets held by the Trust issuing the Commodity-Based Trust Shares, which would assist in monitoring trading in such Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws, thereby making the Commodity-Based Trust Shares less readily susceptible to fraud and manipulation.

In addition, subparagraph (B) of Rule 5711(d)(iv) sets forth the eligibility requirements for the Trust's security holdings. Specifically, if the Trust holds any securities, each security held by the Trust would need to meet the criteria of Rule 5735 (Managed Fund Shares), Sections b(1)(A) and (B), or if the security is a listed option, trades on an ISG market. Essentially, the GLS requires that the security holdings of the Commodity-Based Trust Shares be either an equity security or a fixed income security, as defined in Rule 5735(b)(1)(A) and (B), respectively, and meet the listing standards thereunder, or if the security holdings are listed options, they trade on an ISG market. The Commission previously found that

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[3] *See* Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares).

[4] The term ''Commodity-Based Trust Shares'' refers to a type of exchange-traded product (''ETP'') and means a security that: (1) is issued by a trust, limited liability company, partnership, or other similar entity (''Trust'') that, if applicable, is operated by a registered commodity pool operator pursuant to the Commodity Exchange Act, and is not registered as an investment company pursuant to the Investment Company Act of 1940, or series or class thereof; (2) is designed to reflect the performance of one or more reference assets or an index of reference assets, less expenses and other liabilities; (3) in order to reflect the performance as provided in (d)(iii)(A)(2) above, is issued by a Trust that holds (a) one or more commodities or commodity-based assets as defined in (d)(iii)(C) below, and (b) in addition to such commodities or commodity-based assets, may hold securities, cash, and cash equivalents; (4) is issued by such Trust in a specified aggregate minimum number in return for a deposit of (a) a specified quantity of the underlying commodities, commodity-based assets, securities, cash, and/or cash equivalents, or (b) a cash amount with a value based on the next determined net asset value per Trust share; and (5) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder (a) the specified quantity of the underlying commodities, commodity-based assets, securities, cash, and/or cash equivalents, or (b) a cash amount with a value based on the next determined net asset value per Trust share. *See* Rule 5711(d)(iii)(A).

[5] The term ''commodity'' is as defined in Section 1a(9) of the Commodity Exchange Act that is not an ''excluded commodity'' as defined in Section 1a(19) of the Commodity Exchange Act. *See* current Rule 5711(d)(iii)(B). As discussed later in this filing, the Exchange is proposing to amend this definition to exclude certain assets that were not contemplated within the scope of the GLS at the time of their adoption.

[6] The term ''commodity-based asset'' means any future, option, or swap on a commodity. *See* Rule 5711(d)(iii)(C).

[7] The term ''cash equivalent'' means short-term instruments with maturities of less than three months as follows: (1) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements and reverse repurchase agreements; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (6) commercial paper, which are short-term unsecured promissory notes; and (7) money market funds. *See* Rule 5711(d)(iii)(D).

the generic listing standards for Managed Fund Shares consistent with the Exchange Act, including the requirements relating to component equity and fixed income securities underlying Managed Fund Shares.[8] Further, with respect to listed options, ISG membership would help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Commodity-Based Trust Shares less readily susceptible to manipulation.

The Exchange now proposes to amend Rule 5711(d)(iv) to require that at least 85% of the NAV of the Commodity-Based Trust Shares holdings be comprised of assets that are already allowed under the GLS. Specifically, the proposed rule text would provide that at least 85% of the NAV of the Commodity-Based Trust Shares holdings shall consist of (i) commodities, commodity-based assets, and securities that meet the eligibility criteria in subparagraphs (A) and (B) on an initial (except for (A)(3)) and continuing basis, and/or (ii) cash and cash equivalents (as defined in paragraph (iii)(D) of Rule 5711(d)). For purposes of calculating the 85% limitation, the holdings in listed and over-the-counter derivatives will be calculated as the aggregate gross notional value of the derivatives.[9]

The remaining weight of the Trust may consist of other assets like commodities, commodity-based assets, or securities that do not independently satisfy the eligibility criteria in Rule 5711(d)(iv)(A) or (B), provided that such portion does not exceed 15% of the NAV of the Trust's holdings and the Trust otherwise complies with all applicable requirements of the GLS.[10] The sponsor of the Commodity-Based Trust Shares must monitor compliance with this 85% threshold daily, and must promptly notify the Exchange if the Commodity-Based Trust Share breaches this requirement.[11]

The following examples illustrate how the 85/15 proposal will be applied:

1. A Commodity-Based Trust Share (''CBTS'') holds $95 million in market value of Bitcoin, Ether, Solana, and XRP, which all presently qualify as eligible commodities under Rule 5711(d)(iv)(A)(2) and (3) (*i.e.,* each commodity underlies a futures contract that has been trading on an ISG market for at least 6 months, and has an ETF that provides at least 40% economic exposure to the commodity). The CBTS also holds $5 million in market value in several digital asset commodities that do not presently qualify as eligible commodities under the GLS. Because at least 95% of the Trust's NAV ($95 million/$100 million = 95%) meets the eligibility criteria under Rule 5711(d)(iv)(2) and (3), the CBTS exceeds the 85% threshold and would qualify under the proposed generic criteria.

2. A CBTS holds gold and gold futures contracts. Both assets presently qualify as an eligible commodity or commodity-based asset under Rule 5711(d)(iv)(A)(2) because the commodity (gold) underlies gold futures contracts that are listed and trading on an ISG market for at least six months. The gold held by the Trust has a market value of $80 million. The gold futures contract trading unit size is 100 troy ounces and an ounce of gold is currently worth $4,000. The Trust holds 100 gold futures contracts with a gross notional value of $40 million (100 contracts * 100 troy ounces * $4,000). Both the gold and gold futures holdings of $120 million in total (100% of NAV) would meet the eligibility criteria under Rule 5711(d)(iv)(A)(2). As such, the CBTS exceeds the 85% threshold and would qualify under the proposed generic criteria.

3. A CBTS holds bitcoin and OTC call options on a bitcoin ETF. Bitcoin presently qualifies as an eligible commodity under Rule 5711(iv)(A)(2) and (3) (*i.e.,* bitcoin underlies a futures contract that has been trading on an ISG market for at least 6 months, and has an ETF that provides at least 40% economic exposure to bitcoin). The bitcoin held by the Trust currently has a market value of $100 million. The Trust also holds 5,000 OTC call options (with each option contract representing 100 shares) on a bitcoin ETF with a current market price of $80 per share, resulting in a gross notional value of $40 million (5,000 option contracts * 100 option contract multiplier * $80 share price). Because these options are traded over-the-counter rather than on an ISG market, they do not meet the GLS eligibility criteria for securities under Rule 5711(d)(iv)(B). Accordingly, only the bitcoin holdings of $100 million or ~71% of NAV ($100 million/$140 million = 71.42%) would meet the GLS eligibility criteria under Rule 5711(d)(iv)(A)(2) and (3). This is below the required 85% threshold, and the CBTS would not qualify under the proposed generic criteria.

The Exchange notes that the proposed 85% threshold for Commodity-Based Trust Shares is consistent with the thresholds recently approved by the Commission for similar commodity-based ETPs.[12] In those filings, the Commission approved the listing and trading of commodity-based ETPs holding a diversified portfolio of underlying commodities that tracked transparent, rules-based indexes. There, the Commission found that the requirement that the Trusts hold at least 85% of its investments in assets approved by the Commission to underlie an ETP as primary investments would enable adequate surveillance of the Shares on the Exchange, and found that the Exchange's rules were designed to prevent fraud and manipulation.[13] Although the ETPs in the Grayscale Order and Bitwise Order were listed under a different listing rule for Trust Units,[14] the Exchange believes that the policy rationale underlying the 85% threshold applies with equal force to Commodity-Based Trust Shares listed under Rule 5711(d). Here, the Exchange is proposing to require that at least 85%

[8] *See* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (NYSEARCA–2015–110) (approving NYSE Arca's generic listing standards for Managed Fund Shares); Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100) (approving BZX's generic listing standards for Managed Fund Shares); Securities Exchange Act Release No. 78918 (Sep. 23, 2016), 81 FR 67033 (Sep. 29, 2016) (SR–NASDAQ–2016–104) (approving Nasdaq's generic listing standards for Managed Fund Shares).

[9] Today, the Exchange similarly calculates percentage limitations on listed and over-the-counter (''OTC'') derivatives in its Managed Fund Shares rule based on the aggregate gross notional value of the listed and OTC derivatives. *See* Rule 5735(b)(1)(D) and (E).

[10] As discussed above and as contemplated by Rule 5711(d)(iii)(A), Commodity-Based Trust Shares may hold commodities or commodity-based assets and, in addition to such commodities or commodity-based assets, may hold securities, cash, and cash equivalents.

[11] The Exchange notes that generally speaking, a company with securities listed under the Rule 5700 Series must provide the Exchange with prompt notification after the company becomes aware of any noncompliance by the company with the requirements of the Rule 5700 Series. *See* Rule 5701(d). Further, the Commodity-Based Trust Shares rule requires that an issuer of Commodity-Based Trust Shares must notify the Exchange of any failure to comply with the continued listing requirements. *See* Supplementary Material .03 to Rule 5711(d).

[12] *See* Securities Exchange Act Release Nos. 103996 (September 17, 2025) (SR–NYSEARCA–2024–87) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.500–E (Trust Units) and to List and Trade Shares of the Grayscale Digital Large Cap Fund LLC under Amended NYSE Arca Rule 8.500–E (Trust Units)) (''Grayscale Order''); and 104212 (November 18, 2025) (SR–NYSEARCA–2024–98) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.500–E (Trust Units) and to List and Trade Shares of the Bitwise 10 Crypto Index ETF under Amended NYSE Arca Rule 8.500–E (Trust Units)) (''Bitwise Order'').

[13] *See* Grayscale Order and Bitwise Order, *supra* note 12.

[14] ''Trust Units'' are listed on the Exchange under Rule 5711(i).

of the NAV of the Trust's holdings be composed of assets that already qualify under the GLS (*i.e.,* commodities, commodity-based assets, and securities that meet the eligibility criteria in Rule 5711(d)(iv) as well as cash and cash equivalents). These eligibility criteria are designed to assist the Exchange in monitoring trading in such Shares on the Exchange, thereby mitigating risks around fraud and manipulation. The Exchange therefore believes that its proposal similarly strikes an appropriate balance between ensuring that the primary exposure of the ETP is to assets meeting established eligibility standards approved by the Commission, and allowing limited exposure to additional assets that enhance diversification and flexibility without undermining market integrity or investor protection.

The Exchange also proposes to amend the definition of commodity in Rule 5711(d)(iii)(B) by excluding non-fungible assets and collectibles from its scope. Effectively, this would exclude those assets from being considered as eligible commodities under the GLS. However, this would not preclude the Exchange from submitting a 19b–4 rule filing to seek the listing and trading of a Commodity-Based Trust Share that includes such assets if it determines to do so. The Exchange notes that generic listing standards are generally intended to apply to products that were known and contemplated at the time of adoption. They are not intended to apply to novel products or materially distinct structures that were not considered when the standards were adopted. As it relates to the GLS for Commodity-Based Trust Shares, the commodities that were known and contemplated at the time of adoption included precious metals and digital asset commodities. At the time of adoption, the Exchange did not contemplate non-fungible assets or collectibles to fall within the GLS scope. As such, the Exchange believes it is appropriate to exclude these assets from the GLS definition of commodity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market, and, in general to protect investors and the public interest because it would facilitate the listing and trading of additional Commodity-Based Trust Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace.

As discussed above, the Exchange is requiring at least 85% of the NAV of the Trust's holdings to be composed of assets that already qualify under the GLS (*i.e.,* cash, cash equivalents, as well as commodities, commodity-based assets, and securities that meet the eligibility criteria in Rule 5711(d)(iv)). By requiring that the primary exposure of Commodity-Based Trust Shares be in assets meeting established eligibility criteria under this Rule, the Exchange believes that its proposal will ensure flexibility for product innovation while maintaining robust investor protections. As discussed above, these eligibility criteria are generally designed to ensure that the Exchange can obtain information regarding trading in the assets held by the Trust issuing the Commodity-Based Trust Shares. This, in turn, would assist in monitoring the trading in such Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws, thereby making Commodity-Based Trust Shares less readily susceptible to fraud and manipulation.

The Exchange also believes it is consistent with the Act to exclude non-fungible assets and collectibles from the definition of commodity in the GLS. As discussed above, these assets were not contemplated at the time of adoption, and in general, generic listing standards are not intended to cover novel products that were not considered when such standards were adopted. However, this would not preclude the Exchange from submitting an individual 19b-4 rule filing to seek the listing and trading of a Commodity-Based Trust Share that includes such assets if it determines to do so.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Commodity-Based Trust Shares pursuant to generic listing standards, provided that the applicable requirements are satisfied. Accordingly, the proposal is designed to facilitate product innovation and efficient listing processes, thereby enhancing competition among issuers and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2026–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–032. 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

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–032 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08179 Filed 4–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105294; File No. SR-CboeEDGA–2026–011]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fees Schedule to Codify a User Fee Exemption and Amend the Definition of Non-Display Usage

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 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 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'') proposes to amend its Fees Schedule to codify a User Fee exemption and amend the definition of Non-Display Usage. 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/edga/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (i) codify a User Fee exemption to the Market Data section of its fee schedule and (ii) amend the definition of Non-Display Usage.[3] As discussed further below, the User Fee exemption is currently outlined in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify this in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[4] for the market data products listed on the Exchange's fee schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor and Display Usage within its Fee Schedule for clarity; both definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[5] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[6] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage.

The second change the Exchange seeks to make, is to amend the definition of Non-Display Usage. The existing definition covers any method of access of a Data Product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons. The Exchange now seeks to amend this definition to (i) include the facilitation of access and (ii) add that the purpose must not be solely in support of display for a natural person.

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.[7] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CboeEDGA–2026–008). On April 13, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's fee schedule, as applicable.

[5] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* EDGA Equities Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses [10] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that proposing to codify this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors [11] only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the User Fee exemption) codifying the definitions of Display Usage and Controlled Distributors in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the proposed definition change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The change is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, under the prior definition, a firm that directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy would be required to procure a license for Non-Display. However, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to insert this definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[12]

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the revised definition is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] 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

[10] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

[11] Uncontrolled Distributors are defined as Distributors that do not control the entitlements of and display of information to its Users. *See* EDGA Equities Fee Schedule.

[12] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy-NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

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–CboeEDGA–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–CboeEDGA–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–CboeEDGA–2026–011 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08180 Filed 4–27–26; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105302; File No. SR–C2–2026–009]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Codify a User Fee Exemption and the Amended Definition of ''Non-Display Usage'' in Its Fee Schedule

April 23, 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 April 21, 2026, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its Fees Schedule to codify a User fee exemption and the amended definition of ''Non-Display Usage'' in its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to codify (i) an existing User Fee exemption to the Market Data section of its Fee Schedule and (ii) codify the amended definition of ''Non-Display Usage'' under the Market Data section of its Fee Schedule.[3] [4] [sic] As discussed further below, both the User Fee exemption and the amended definition of Non-Display Usage are currently contained in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify both concepts in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[5] for the market data products listed on the Exchange's Fee Schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor, Display Usage and Uncontrolled Distributor[6] within its Fee Schedule for clarity; all definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is

[3] The Exchange is also including two clean up changes (to revise typos) to other definitions in its Fee Schedule in addition to these changes.

[4] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–C2–2026–006). On April 13, 2026, the Exchange withdrew that filing and submitted SR–C2–2026–008. On April 21, 2026, the Exchange withdrew that filing and submitted his filing.

[5] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's Fee Schedule, as applicable.

[6] Uncontrolled Distributors are defined as External Distributors that do not control the entitlements of and display of information to its Users. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Uncontrolled Distributors'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[7] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[8] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

Second, the Exchange proposes to codify the amended definition of ''Non-Display Usage'' as any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons.[9] The Exchange previously applied the prior definition of Non-Display Usage that was in the Cboe Global Markets North American Data Policies. This definition stated that Non-Display Usage meant any method of accessing a Market Data product that involved access or use by a machine or automated device without access or use of a display by a natural person or persons. This definition was also previously in the Exchange's affiliated equities exchanges fee schedules.

The proposed definition adopted in Cboe Global Markets North American Data Policies (effective April 1, 2026) now states that, Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As discussed further below, the proposed definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs'').

In conjunction with the proposed revision to the Non-Display Usage definition, the Exchange proposes to codify this amended, up-to-date version to be within its Fee Schedule. The Exchange's affiliated options and equities exchanges are also codifying and amending this definition (as applicable) in their respective fee schedules.

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.[10] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[11] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses [13] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that codifying this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the Display Usage exemption) codifying the definitions of Display Usage, Controlled Distributor and Uncontrolled Distributor in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the codification of the amended definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies is designed to (i) provide transparency by including this definition in the Fee Schedule directly (as opposed to only having this within the Cboe Global Markets North American Data Policies) and (ii) provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange Data through the proposed amendments to the prior definition that was applied (and was previously in the Cboe Global Markets North American Data Policies).

Specifically, the amended definition of Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or

[7] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[8] *See* C2 Options Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[9] The term ''Non-Display Usage'' is defined in Cboe Global Markets' North American Data Policies. *See* Cboe Global Markets North American Data Policies. The term is also defined in the fee schedules of the Exchange's affiliated equities exchanges. *See e.g.,* Cboe BYX Equities Fee Schedule. The Exchange now proposes to codify the definition of ''Non-Display Usage'' in the Definitions section of Market Data Fees in the Exchange's Fees Schedule for transparency and clarity. The Exchange seeks to adopt the definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f(b)(5).

[13] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

automated device for a purpose that is not solely in support of display for a natural person or persons. As noted above, the prior definition that was used (and was contained in Cboe Global Markets' North American Data Policies) stated that: Non-Display Usage means any method of accessing a Market Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.

The codification of the amended definition of ''Non-Display Usage,'' and other terms,[14] are intended to add transparency and clarity to the Exchange's Fee Schedule. The proposed amended definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, the prior definition in Cboe Global Markets North American Data Policies did not include ''facilitating access to'' in the Non-Display Usage definition. This meant that if a firm directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy, it would be required to procure a license for Non-Display. However, under the prior definition, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to include this in its amended definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[15]

The Exchange notes that all the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the amended definition of ''Non-Display Usage'' that it proposes to include in its Fee Schedule is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants. Adding this definition to the Fee Schedule only provides further clarity and transparency for market participants. As noted above, the Exchange's affiliated equities exchanges already have a ''Non-Display Usage'' definition codified within their respective schedules. In conjunction with this filing, the Exchange's affiliated equities exchanges are also proposing to amend the existing Non-Display Usage definition within their fee schedules to align with the revised Cboe North America Market Data Policies and with the Exchange's proposed definition. The Exchange's affiliated options exchanges are also proposing to adopt this updated definition within their fee schedules as well.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and paragraph (f) of Rule 19b–4[17] 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–C2–2026–009 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–C2–2026–009. 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

[14] *Supra* notes 5, 6 and 7.

[15] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy–NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

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–C2–2026–009 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08187 Filed 4–27–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105298; File No. SR–CboeBZX–2026–032]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Codify a User Fee Exemption and Amend the Definition of Non-Display Usage

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2026, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fees Schedule to codify a User Fee exemption and amend the definition of Non-Display Usage. 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

The Exchange proposes to (i) codify a User Fee exemption to the Market Data section of its fee schedule and (ii) amend the definition of Non-Display Usage.[3] As discussed further below, the User Fee exemption is currently outlined in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify this in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[4] for the market data products listed on the Exchange's fee schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor and Display Usage within its Fee Schedule for clarity; both definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[5] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[6] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

The second change the Exchange seeks to make, is to amend the definition of Non-Display Usage. The existing definition covers any method of access of a Data Product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons. The Exchange now seeks to amend this definition to (i) include the facilitation of access and (ii) add that the purpose must not be solely in support of display for a natural person.

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.[7] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CboeBZX–2026–021). On April 13, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's fee schedule, as applicable.

[5] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* BZX Equities Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses [10] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that proposing to codify this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors [11] only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the User Fee exemption) codifying the definitions of Display Usage and Controlled Distributors in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the proposed definition change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The change is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, under the prior definition, a firm that directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy would be required to procure a license for Non-Display. However, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to insert this definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[12]

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the revised definition is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[9] 15 U.S.C. 78f(b)(5).

[10] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

[11] Uncontrolled Distributors are defined as Distributors that do not control the entitlements of and display of information to its Users. *See* BZX Equities Fee Schedule.

[12] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy-NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

of the Act [13] and paragraph (f) of Rule 19b–4 [14] 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–CboeBZX–2026–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR-CboeBZX–2026–032. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–032 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08184 Filed 4–27–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105297; File No. SR–CboeBYX–2026–013]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Codify a User Fee Exemption and Amend the Definition of Non-Display Usage

April 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2026, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend its Fees Schedule to codify a User fee exemption and amend the definition of Non-Display Usage. 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/* [sic]), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (i) codify a User Fee exemption to the Market Data section of its fee schedule and (ii) amend the definition of Non-Display Usage.[3] As discussed further below, the User Fee exemption is currently outlined in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify this in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees [4] for the market data products listed on the Exchange's fee schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor and Display Usage within its Fee Schedule for clarity; both definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR-CboeBYX–2026–010). On April 13, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's fee schedule, as applicable.

User.[5] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[6] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

The second change the Exchange seeks to make, is to amend the definition of Non-Display Usage. The existing definition covers any method of access of a Data Product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons. The Exchange now seeks to amend this definition to (i) include the facilitation of access and (ii) add that the purpose must not be solely in support of display for a natural person.

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.[7] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses[10] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that proposing to codify this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors[11] only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the User Fee exemption) codifying the definitions of Display Usage and Controlled Distributors in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the proposed definition change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The change is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, under the prior definition, a firm that directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy would be required to procure a license for Non-Display. However, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to insert this definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[12]

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the revised definition is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants.

[5] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* BYX Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

[11] Uncontrolled Distributors are defined as Distributors that do not control the entitlements of and display of information to its Users. *See* BYX Fee Schedule.

[12] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy-NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] 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–CboeBYX–2026–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR-CboeBYX–2026–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the 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–CboeBYX–2026–013 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08183 Filed 4–27–26; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105304; File No. SR–CboeEDGX–2026–027]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Codify a User Fee Exemption and the Amended Definition of ''Non-Display Usage'' in Its Fee Schedule

April 23, 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 April 21, 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 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 Options'') proposes to amend its Fee Schedule to codify a User fee exemption and the amended definition of ''Non-Display Usage'' in its Fee Schedule. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to codify (i) an existing User Fee exemption to the Market Data section of its Fee Schedule and (ii) the amended definition of ''Non-Display Usage'' under the Market Data section of its Fee Schedule.[3] As discussed further below, both the User Fee exemption and the amended definition of Non-Display Usage are currently contained in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify both concepts in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees[4] for the market data products listed on the Exchange's Fee Schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor, Display Usage and Uncontrolled Distributor[5] within its Fee Schedule for clarity; all definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[6] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[7] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

Second, the Exchange proposes to codify the amended definition of ''Non-Display Usage'' as any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons.[8] The Exchange previously applied the prior definition of Non-Display Usage that was in the Cboe Global Markets North American Data Policies. This definition stated that Non-Display Usage meant any method of accessing a Market Data product that involved access or use by a machine or automated device without access or use of a display by a natural person or persons. This definition was also previously in the Exchange's equities and affiliated equities exchanges fee schedules.

The proposed definition adopted in Cboe Global Markets North American Data Policies (effective April 1, 2026) now states that, Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As discussed further below, the proposed definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs'').

In conjunction with the proposed revision to the Non-Display Usage definition, the Exchange proposes to codify this amended, up-to-date version to be within its Fee Schedule. The Exchange's affiliated options and equities exchanges are also codifying and amending this definition (as applicable) in their respective fee schedules.

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.[9] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses[12] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that codifying this proposed exemption is reasonable as no

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CboeEDGX–2026–018). On April 13, 2026, the Exchange withdrew that filing and submitted SR–CboeEDGX–2026–024. On April 21, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Displayed Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's Fee Schedule, as applicable.

[5] Uncontrolled Distributors are defined as External Distributors that do not control the entitlements of and display of information to its Users. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Uncontrolled Distributors'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[7] *See* EDGX Options Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[8] The term ''Non-Display Usage'' is defined in Cboe Global Markets' North American Data Policies. *See* Cboe Global Markets North American Data Policies. The term is also defined in the fee schedules of the Exchange's affiliated equities exchanges. *See e.g.,* Cboe BYX Equities Fee Schedule. The Exchange now proposes to codify the definition of ''Non-Display Usage'' in the Definitions section of Market Data Fees in the Exchange's Fees Schedule for transparency and clarity. The Exchange seeks to adopt the definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the Display Usage exemption) codifying the definitions of Display Usage, Controlled Distributor and Uncontrolled Distributor in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the codification of the amended definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies is designed to (i) provide transparency by including this definition in the Fee Schedule directly (as opposed to only having this within the Cboe Global Markets North American Data Policies) and (ii) provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange Data through the proposed amendments to the prior definition that was applied (and was previously in the Cboe Global Markets North American Data Policies).

Specifically, the amended definition of Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As noted above, the prior definition that was used (and was contained in Cboe Global Markets' North American Data Policies) stated that: Non-Display Usage means any method of accessing a Market Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.

The codification of the amended definition of ''Non-Display Usage,'' and other terms,[13] are intended to add transparency and clarity to the Exchange's Fee Schedule. The proposed amended definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, the prior definition in Cboe Global Markets North American Data Policies did not include ''facilitating access to'' in the Non-Display Usage definition. This means that if a firm directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy, it would be required to procure a license for Non-Display. However, under the prior definition, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to include this in its amended definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[14]

The Exchange notes that all the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the proposed amended definition of ''Non-Display Usage'' that it proposes to include in its Fee Schedule is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants. Adding this definition to the Fee Schedule only provides further clarity and transparency for market participants. As noted above, the Exchange's equites exchange and its affiliated equities exchanges already have a ''Non-Display Usage'' definition codified within their respective schedules. In conjunction with this filing, the Exchange's affiliated equities exchanges are also proposing to amend the existing Non-Display Usage definition within their fee schedules to align with the revised Cboe North America Market Data Policies and with the Exchange's proposed definition. The Exchange's affiliated options exchanges are also proposing to adopt this updated definition within their fee schedules as well.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business

[13] *Supra* notes 4, 5 and 6.

[14] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy–NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 [16] 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–2026–027 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–2026–027. 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–2026–027 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08189 Filed 4–27–26; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105303; File No. SR–CboeBZX–2026–033]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Codify a User Fee Exemption and the Amended Definition of ''Non-Display Usage'' in Its Fee Schedule

April 23, 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 April 21, 2026, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fees Schedule to codify a User Fee exemption and the amended definition of ''Non-Display Usage'' in its Fee Schedule. 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

The Exchange proposes to codify (i) an existing User Fee exemption to the Market Data section of its Fee Schedule and (ii) the amended definition of ''Non-Display Usage'' under the Market Data section of its Fee Schedule.[3] As discussed further below, both the User Fee exemption and the amended definition of Non-Display Usage are currently contained in the Cboe Global Markets North American Data Policies, the Exchange now proposes to codify both concepts in its Fee Schedule.

First, the Exchange proposes to codify that Controlled Distributors, are exempt from Display Usage fees [4] for the market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially submitted the proposed rule change on April 1, 2026 (SR–CboeBZX–2026–024). On April 13, 2026, the Exchange withdrew that filing and submitted SR–CboeBZX–2026–031. On April 21, 2026, the Exchange withdrew that filing and submitted this filing.

[4] Display Usage means the access to and/or use of a Market Data product by User via a graphical user interface, application or other medium which displays data. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Display Usage'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity. Display Usage fees refer to Processional and Non-Professional User fees, as well as Enterprise or Digital Media fees, that are assessed for the Exchange Market Data products set forth in the Exchange's fee schedule, as applicable.

data products listed on the Exchange's Fee Schedule (each, a ''Data Product'') where the sole purpose of receiving the data is for software development, quality assurance, testing, sales support relating to redistribution, or for technical monitoring of systems using a Product and not in support of other commercial/business functions (collectively, the ''Permitted Purposes). In connection with codifying the Display Usage exemption, the Exchange also proposes to codify the definitions of Controlled Distributor, Display Usage and Uncontrolled Distributor [5] within its Fee Schedule for clarity; all definitions currently exist within the Cboe North American Data Policies. The Exchange has previously applied the User Fee exemption, and while there is no substantive change to how the Exchange applies this, it proposes to formally codify this practice to be within its Fee Schedule.

By way of background, Controlled Distributors both (i) provide data to a User and (ii) control the entitlements of and display of information to such User.[6] Meaning, Controlled Distributors entitle individual Users to view the data on a pre-existing Display application. Controlled Distributors are charged with tracking the Users which it enables and, is assessed the appropriate corresponding Professional and/or Non-Professional user fees, as applicable.[7] The Exchange now proposes to specify in its Fee Schedule that when a Data Product is used for a Permitted Purpose, Users shall not be charged a Display Usage fee.

Second, the Exchange proposes to codify the amended definition of ''Non-Display Usage'' as any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons.[8] The Exchange previously applied the prior definition of Non-Display Usage that was in the Cboe Global Markets North American Data Policies. This definition stated that Non-Display Usage meant any method of accessing a Market Data product that involved access or use by a machine or automated device without access or use of a display by a natural person or persons. This definition was also previously in the Exchange's equities and affiliated equities exchanges fee schedules.

The proposed definition adopted in Cboe Global Markets North American Data Policies (effective April 1, 2026) now states that, Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As discussed further below, the proposed definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs'').

In conjunction with the proposed revision to the Non-Display Usage definition, the Exchange proposes to codify this amended, up-to-date version to be within its Fee Schedule. The Exchange's affiliated options and equities exchanges are also codifying and amending this definition (as applicable) in their respective fee schedules.

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.[9] Specifically, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

User Fee Exemption

In particular, the exemption is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. For example, Display Usage of Data Products solely for the enumerated Permitted Purposes does not directly generate revenue. As such, the Exchange believes it equitable to not charge for such usage. Other exchanges and market data offerings have also taken a similar approach when charging for these uses [12] and such exemptions for these purposes are generally accepted within the industry to not be fee liable. The Exchange believes that codifying this exemption is reasonable as no fees will be assessed where there are Permitted Purposes.

The Exchange notes that all of the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the exemption is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants (*i.e.,* all Controlled Distributors whose Users use a Data Product solely for a Permitted Purpose). Further, the Exchange notes that it is equitable and not unfairly discriminatory for this to only apply to Display Usage fees of Controlled Distributors, as Uncontrolled Distributors only distribute Data Products where Display Usage fees are not applicable.

The Exchange believes that (in addition to codifying the Display Usage exemption) codifying the definitions of Display Usage, Controlled Distributor and Uncontrolled Distributor in its Fee Schedule provides further clarity for market participants. With all relevant terms for the Display Usage exemption

[5] Uncontrolled Distributors are defined as External Distributors that do not control the entitlements of and display of information to its Users. *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of ''Uncontrolled Distributors'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[6] *See* Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an ''Controlled Distributor'' in the Definitions section of the Market Data Fees schedule in the Exchange's Fees Schedule for transparency and clarity.

[7] *See* BZX Options Fee Schedule. As noted above, Display Usage fees are assessed at different rates depending on (i) if the User is a Professional user or a Non-Professional and (ii) for the specific Data Product as set for the Exchange's Market Data.

[8] The term ''Non-Display Usage'' is defined in Cboe Global Markets' North American Data Policies. *See* Cboe Global Markets North American Data Policies. The term is also defined in the fee schedules of the Exchange's affiliated equities exchanges. *See e.g.,* Cboe BYX Equities Fee Schedule. The Exchange now proposes to codify the definition of ''Non-Display Usage'' in the Definitions section of Market Data Fees in the Exchange's Fees Schedule for transparency and clarity. The Exchange seeks to adopt the definition of ''Non-Display Usage'' contained in Cboe Global Markets' North American Data Policies.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] *See e.g.,* MIAX Exchange Group Market Data Policies, Section 10 and UTP Plan Administration Data Policies, Administrative Usage Policy—Internal Use Only.

defined within the Fee Schedule, market participants will be better able to ascertain if this exemption is applicable to them and the specific terms of this exemption.

Non-Display Usage Definition

In particular, the codification of the amended definition of ''Non-Display Usage'' contained in Cboe Global Markets North American Data Policies is designed to (i) provide transparency by including this definition in the Fee Schedule directly (as opposed to only having this within the Cboe Global Markets North American Data Policies) and (ii) provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange Data through the proposed amendments to the prior definition that was applied (and was previously in the Cboe Global Markets North American Data Policies).

Specifically, the amended definition of Non-Display Usage means any method of accessing, or facilitating access to, a Market Data product that involves access or use by a machine or automated device for a purpose that is not solely in support of display for a natural person or persons. As noted above, the prior definition that was used (and was contained in Cboe Global Markets' North American Data Policies) stated that: Non-Display Usage means any method of accessing a Market Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.

The codification of the amended definition of ''Non-Display Usage,'' and other terms,[13] are intended to add transparency and clarity to the Exchange's Fee Schedule. The proposed amended definition is intended to capture changes in the evolving landscape of technology with firms more frequently leveraging Large Language Models (''LLMs''). Firms that facilitate the transmission of Data Products into ''black box'' solutions (which include LLMs), may now need to obtain non-display licensing for usage of the Data Product.

For example, the prior definition in Cboe Global Markets North American Data Policies did not include ''facilitating access to'' in the Non-Display Usage definition. This meant that if a firm directly ingested a Data Product for the purpose of feeding the data directly into an automated trading strategy, it would be required to procure a license for Non-Display. However, under the prior definition, a firm that ingested a Data Product for training or operating a LLM or that facilitated transmission of a Data Product may not explicitly fall under the definition of Non-Display Usage, despite the firm ingesting the data for a non-display purpose. In order to facilitate more equitable outcomes between firms, the Exchange proposes to include this in its amended definition to ensure that Non-Display Usage better covers the intended audience.

The intent of this revised definition is not to introduce a new or novel concept, it is instead intended to provide further clarity on firms that should be covered under this license with new uses of Data Products in mind. The Exchange notes that this update better aligns itself with industry standards as well.[14]

The Exchange notes that all the Data Products are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

Additionally, the Exchange believes the amended definition of ''Non-Display Usage'' that it proposes to include in its Fee Schedule is equitable and non-discriminatory in that it applies uniformly to similarly situated market participants. Adding this definition to the Fee Schedule only provides further clarity and transparency for market participants. As noted above, the Exchange's equities exchange and its affiliated equities exchanges already have a ''Non-Display Usage'' definition codified within their respective schedules. In conjunction with this filing, the Exchange's affiliated equities exchanges are also proposing to amend the existing Non-Display Usage definition within their fee schedules to align with the revised Cboe North America Market Data Policies and with the Exchange's proposed definition. The Exchange's affiliated options exchanges are also proposing to adopt this updated definition within their fee schedules as well.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively (*e.g.,* by updating its definition of Non-Display to conform with changes in the industry). As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intramarket competition, as the exemption applies uniformly to all Controlled Distributors, and in turn, the ultimate end Users are not utilizing the applicable Data Product(s) for commercial or business purposes. Further, the proposed change to codify the User Fee exemption is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely clarifies the Exchange's internal process (as stated in the Cboe Global Markets North American Data Policies) on applying the User Fee exemption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 [16] 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

[13] *Supra* notes 4, 5, 6.

[14] See *e.g.,* NASDAQ Data—Artificial Intelligence Policy (Market Data—Data_AI_Policy–NASDAQ.pdf—All Documents), stating that ''Any use of or access to Nasdaq Information including for training of AI models must strictly adhere to the terms of the license governing access to such Nasdaq Information, including maintaining appropriate licenses with redistributors and service facilitators. This includes any use that would subject the data to the following environments outside the license.''

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

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–CboeBZX–2026–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2026–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–033 and should be submitted on or before May 19, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08188 Filed 4–27–26; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105296; File No. SR–FINRA–2026–002]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend FINRA Rules 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) and 5123 (Private Placements of Securities)

April 23, 2026.

I. Introduction

On January 22, 2026, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rules 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) and 5123 (Private Placements of Securities).[3] Specifically, the proposed rule changes would, among other things, amend provisions of Rule 5110 to: (1) change the valuation method for securities acquisitions considered underwriting compensation; (2) add new exclusions from underwriting compensation for certain securities acquisitions; (3) amend the rule to treat non-convertible preferred securities the same as non-convertible debt securities; and (4) make other minor modifications for clarity and to improve the operation of the rule. The proposed amendments to Rule 5123 would expand available exemptions under the rule to include offerings sold to investors meeting the categories of accredited investor for certain family offices and certain entities with assets under management in excess of $5,000,000, consistent with the Commission's treatment of those categories in the accredited investor definition.

The proposed rule change was published for public comment in the **Federal Register** on January 30, 2026.[4] The public comment period closed on February 20, 2026. The Commission received comment letters in response to the Notice.[5] On March 12, 2026, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to April 30, 2026.[6]

The Commission is publishing this order pursuant to Section 19(b)(2)(B) of the Exchange Act[7] to institute proceedings to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

FINRA Rule 5110 requires any broker-dealer that is a member of FINRA (''member'') that participates in a public offering to file documents and information with FINRA about underwriting terms and arrangements.[8] Among other things, the rule contains provisions relating to how underwriting compensation is valued,[9] as well as providing examples of payments that are not deemed to be underwriting compensation.[10] FINRA's Corporate Financing Department reviews this information prior to the commencement of the offering to determine whether the underwriting compensation and other terms and arrangements meet the requirements of applicable FINRA rules.[11]

In general, Rule 5123 requires members to file with FINRA any private placement memorandum, term sheet or other offering document, and any retail communication that promotes or recommends a private placement, including any material amended versions thereof, used in connection with a private placement of securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 34–104695 (Jan. 27, 2026), 91 FR 4121 (Jan. 30, 2026) (File No. SR–FINRA–2026–002) (''Notice'').

[4] *See id.*

[5] The comment letters are available at *https://www.sec.gov/rules-regulations/public-comments/sr-finra-2026-002.*

[6] *See* letter from Joseph Savage, Vice President and Associate General Counsel, Office of General Counsel, FINRA (Mar. 12, 2026), *https://www.finra.org/sites/default/files/2026-03/SR-FINRA-2026-002-Extension-1.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* FINRA Rule 5110. FINRA states that the following are examples of public offerings that are routinely filed: (1) initial public offerings (''IPOs''); (2) follow-on offerings; (3) shelf offerings; (4) rights offerings; (5) offerings by direct participation programs as defined in FINRA Rule 2310(a)(4) (Direct Participation Programs); (6) exchange offers; (7) offerings pursuant to SEC Regulation A; and (8) offerings by closed-end funds. *See* Notice at 4122 n.3.

[9] *See* Rule 5110(c).

[10] *See* Rule 5110.01(b).

[11] *See* Notice at 4122. A member may proceed with a public offering only if FINRA has provided an opinion that it has no objection to the proposed underwriting terms and arrangements. *See* Rule 5110(a)(1)(C)(ii).

within 15 calendar days of the date of first sale, unless the member can rely on an applicable exemption from the rule.[12] Rule 5123 contains an exemption from filing for offerings sold to certain types of sophisticated institutional investors that qualify as ''accredited investors'' under Rule 501 of the Securities Act of 1933 (''Securities Act'').[13]

B. The Proposed Rule Change

FINRA's proposed rule change would, among other things, amend provisions of Rule 5110 to: (1) change the valuation method for securities acquisitions considered underwriting compensation; (2) add new exclusions from underwriting compensation for certain securities acquisitions; (3) amend the rule to treat non-convertible preferred securities the same as non-convertible debt securities; and (4) make other minor modifications for clarity and to improve the operation of the rule. The proposed amendments to Rule 5123 would expand the available exemptions under the rule to include offerings sold to investors meeting the categories of accredited investor for certain family offices and certain entities with assets under management in excess of $5,000,000, consistent with the Commission's treatment of those categories in the accredited investor definition.[14]

1. Rule 5110 Proposed Amendments

a. Valuation Method for Securities Acquisitions Considered Underwriting Compensation

FINRA stated that, when participating members [15] acquire securities that are deemed underwriting compensation, the value of the securities is currently based on either the public offering price per security or the price paid per security on the date of acquisition if a ''bona fide public market'' exists for the security.[16] The proposed rule change would amend Rule 5110(c)(2) and (3) by replacing ''bona fide public market'' with a valuation method based on the closing market price of a security traded on a registered national securities exchange or a ''designated offshore securities market'' [17] on the date of acquisition.[18]

b. Exclusions From Underwriting Compensation for Certain Securities Acquisitions

Currently, Rule 5110 provides for certain exclusions from underwriting compensation.[19] The proposed rule change would expand the categories of exclusions from underwriting compensation for certain types of investments by participating members in anticipation of, or concurrently with, a public offering. These proposed amendments cover: (1) debt-for-equity exchanges; (2) capital investments for direct participation programs (''DPPs'') [20] and unlisted real estate investment trusts (''REITs''); [21] and (3) non-convertible preferred securities. Each proposed amendment is discussed below.

i. Debt-For-Equity Exchanges

Currently, Rule 5110 does not provide an exclusion from underwriting compensation for securities acquired by affiliates of underwriters in connection with debt-for-equity exchange transactions.[22] A debt-for-equity exchange is composed of a series of transactions in which a lender acquires equity securities of the issuer, often referred to as exchange shares, in return for a cash loan.[23] The exchange shares are subsequently or concurrently registered and offered by underwriters in a public offering. The offering proceeds are used, in whole or part, as repayment of the loan. When the lender is an affiliate of an underwriter, it falls within the definition of participating member, and the equity securities acquired by the affiliated lender for making the loan fall within the definition of underwriting compensation.[24]

The proposed rule change would add new Supplementary Material .01(b)(23) to provide relief from such exchanges being deemed underwriting compensation if the equity acquired is part of a transaction that provides economic and tax benefits to the issuer and meets the following conditions:

- the affiliated member subsequently offered all of the equity securities the lender acquired in a firm commitment offering following the debt exchange; [25]
- the parties determined the terms of the debt exchange and the subsequent equity issued through arms' length negotiations based on the market price of the equity; [26] and
- the affiliated member negotiated customary compensation for the subsequent equity offering.

ii. Capital Investments for DPPs and REITs

Currently, Rule 5110 does not provide an exclusion from underwriting compensation for capital investments in exchange for an equity stake made by affiliates of underwriters concurrently with or in advance of a public offering.[27] The proposed rule change would add new Supplementary Material .01(b)(24) to provide relief from such transactions by setting out the conditions for excluding capital investments from being deemed underwriting compensation. Supplementary Material .01(b)(24) would work as a self-operating exclusion and would not limit when the transactions could occur. The conditions for Supplementary Material .01(b)(24) apply to securities acquired before or during the distribution of an offering by a participating member in the issuer or an affiliated entity and would require that:

- the capital investments are disclosed in the prospectus;
- the offering and the securities acquired in the capitalization transaction are valued and priced based on net asset value (''NAV''); [28]
- the offering is subject to the requirements of Rule 2310 (Direct Participation Programs); and
- the securities acquired are restricted for a period of 180 days following the commencement of sales.

iii. Non-Convertible Preferred Securities

Currently, Rule 5110 provides that non-convertible or non-exchangeable

[12] *See* Rule 5123.

[13] *See* Rule 5123(b).

[14] In 2020, the SEC amended the definition of accredited investor to include two additional types of institutional entities. *See* Accredited Investor Definition, Securities Exchange Act Release 89669 (Aug. 26, 2020), 85 FR 64234 (Oct. 9, 2020), including new categories of accredited investor under Rule 501(a)(9) and (a)(12).

[15] The term ''participating member'' means any FINRA member that is participating in a public offering, any affiliate or associated person of the member, and any immediate family, but does not include the issuer. *See* Rule 5110(j)(15).

[16] *See* Rule 5110(c). The definition of ''bona fide public market'' requires that the securities be traded on a national securities exchange and relies on SEC Regulation M's definitions of average daily trading volume and public float. *See* Rule 5121(f)(3).

[17] *See* Securities Act Rule 902(b).

[18] *See* Notice at 4122–23.

[19] *See generally* Rule 5110.

[20] *See* Rule 2310(a)(4).

[21] *See* Rule 2231(d)(4).

[22] *See* Rule 5110.01.

[23] *See* Notice at 4123.

[24] *See id.*

[25] *See id.* FINRA states that typically, lenders and affiliated members coordinate to satisfy this condition. However, even if they do not coordinate, the affiliated member can satisfy the condition with the subsequent offering. *See id.*

[26] *See id.* According to FINRA, past exemptions that have been granted consistent with the conditions of this proposed Supplementary Material involved operating companies with equity listed on a national securities exchange with a market price and did not involve an IPO or a spinoff. *See id.*

[27] *See* Rule 5110.01. FINRA states that such investments are common in DPP and REIT offerings to provide the initial or subsequent equity capital or financing needed by an issuer. *See* Notice at 4123.

[28] Capitalization transactions occurring before the issuer has material assets would be deemed to occur at or above NAV. *See* Notice at 4123.

debt securities and derivative instruments acquired by any participating member in a transaction related to a public offering at a fair price [29] are considered underwriting compensation but have no compensation value.[30] However, at present, Rule 5110 does not have specific provisions related to the valuation of non-convertible preferred securities.[31] Because both non-convertible debt and non-convertible preferred securities cannot be converted to common stock and provide predetermined payments to holders, resulting in fixed sources of income, FINRA states that it views them as equivalent for purposes of the Rule 5110 exclusion and, accordingly, the proposed rule change would treat them in a comparable manner as long as non-convertible preferred securities are acquired at a fair price.[32]

c. Additional Minor Modifications to Rule 5110

The proposed rule change would make other minor modifications to Rule 5110 that FINRA believes would improve the operation of the rule. For example, Rule 5110 permits termination fees or the receipt of compensation in the form of rights of first refusal in connection with a public offering that is terminated when specific requirements are met that protect the issuer (*i.e.,* they are not deemed to be prohibited unreasonable terms or arrangements).[33] FINRA states that, increasingly, members negotiate payments often described as ''tail fees'' in engagement letters that are similar to the terms and requirements for termination fees or rights of first refusal.[34] Because tail fees provide compensation in the event of a subsequent financing from investors introduced by a member following the termination of an agreement, FINRA believes these payments are comparable to termination fees for purposes of Rule 5110.[35] The proposed rule change would amend Rule 5110(g)(5)(B) to clarify that the same requirements would apply to tail fees.[36] If these requirements are not met, tail fees would constitute unreasonable arrangements under Rule 5110.

The proposed rule change would also amend Rule 5110 to make non-substantive, technical changes. The proposed rule change would add language to various cross-references throughout the rule in order to clarify that the cross-references are related to the same rule.[37] In addition, the proposed rule change would also change the wording of the definition of ''immediate family'' to replace ''the spouse or child'' with ''the spouse or children''.[38]

2. Rule 5123 Proposed Amendments

The proposed rule change would add two types of entities to the filing exemption under Rule 5123, consistent with the Commission's 2020 amendments to the accredited investor definition. As stated above, in August 2020, the Commission adopted amendments to the definition of ''accredited investor'' under Rule 501.[39] These changes included adding to the definition of accredited investor:

- any entity, of a type not listed in paragraphs (a)(1), (2), (3), (7), or (8) of Rule 501, not formed for the specific purpose of acquiring the securities offered, owning investments in excess of $5,000,000;[40] and
- any ''family office'' with assets under management in excess of $5,000,000, that is not formed for the specific purpose of acquiring the securities offered and its prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment.[41]

The proposed rule change would amend Rule 5123(b)(1) to include these same two types of entities to the filing exemption under Rule 5123.

III. Proceedings To Determine Whether To Approve or Disapprove File No. SR–FINRA–2026–002 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the proposed rule change should be approved or disapproved.[42] Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act, the Commission is providing notice of the grounds for disapproval under consideration.[43] The Commission is instituting proceedings to allow for additional analysis and input concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[44]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by May 19, 2026. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 2, 2026.

Comments may be submitted by any of the following methods:

[29] *See* Rule 5110.06(b).

[30] *See* Rules 5110(c)(5) and 5110.06. FINRA states that, as a general rule, compensation that cannot be valued is prohibited. *See* Rule 5110(g)(1). Under this exclusion, treating these transactions as compensation without value permits the participating member to receive the securities (as long as they are received at a fair price) while still allowing FINRA the ability to review the transactions to determine whether they were, indeed, received at a fair price. If they were not, the value of underwriting compensation that is attributed to these securities is the difference between their fair price and their actual price. *See* Notice at 4123 n.18.

[31] *See id.*

[32] *See* Notice at 4123–24.

[33] *See* Rule 5110(g)(5)(B).

[34] *See* Notice at 4124.

[35] *See id.*

[36] *See id.* at 4124 n.19; *see also* Rule 5110(g)(5)(B).

[37] *See, e.g.,* proposed Rule 5110(g); 5110(j)(11); 5110 (j)(19); 5110(j)(21); 5110.01(a)(13); 5110.03; 5110.04; and 5110.07.

[38] *See* proposed Rule 5110(j)(8)(A).

[39] *See* SEC Accredited Investor Definition Release, *supra* note 14.

[40] *See* 17 CFR 230.501(a)(9).

[41] *See* 17 CFR 230.501(a)(12).

[42] 15 U.S.C. 78s(b)(2)(B).

[43] *Id.*

[44] Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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–FINRA–2026–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–FINRA–2026–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of such filing will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2026–002 and should be submitted on or before May 19, 2026. If comments are received, any rebuttal comments should be submitted on or before June 2, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–08182 Filed 4–27–26; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–2469]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: For the Information Collection Entitled, Website for Frequency Coordination Request

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection via the FAA's deployed Web-based Frequency Coordination system (WebFCR), which collects certain broadcast and transmitter frequency information under OMB control number 2120–0786. The information collected is needed to perform the aeronautical studies, technical evaluations required, and to meet the specified requirements for the radio frequency engineering pursuant to the Federal Aviation Administration (FAA) Order 6050.32.B, Chapter 3, Section 302. This FAA Order outlines the U.S. National Organizations and the role of the National Telecommunications and Information Administration (NTIA) in assigning and coordinating the Aviation Assignment Group (AAG) radio spectrum used by the FAA to support aeronautical services. Hence, the FAA must ''authorize'' aeronautical frequencies of broadcast applications that impact the AAG bands.

DATES: Written comments should be submitted by May 28, 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: Christopher S. Jones by email at: *christopher.s.jones@faa.gov;* phone: (202) 256–5523

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0786.

Title: Website for Frequency Coordination Request (WebFCR) *webfcr.faa.gov.*

Form Numbers: Historically related to FAA Form 7460–1.

Type of Review: Request for renewal of information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 25, 2026 (91 FR 9323).

The 49 U.S.C. 44718(c) under Broadcast Applications and Tower Studies states, 'In carrying out laws related to a broadcast application—the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—(1) The receipt and consideration of, and action on, the application; and (2) The completion of any associated aeronautical study.

Currently, transmitter broadcast radio frequency data is collected via OMB Control 2120–0786 to address non-Federal, military, U.S. federal agency, state, and municipalities broadcast applications which require consideration, analysis, or aeronautical studies pursuant to 49 U.S.C. 44718(c).

Respondents: Approximately 4800 annually. The Respondents are engineers, analysts, consultants, stakeholders, or federal agency managers, including military services, who need to transmit on a radio frequency that is within the National Telecommunications and Information Administration's (NTIA) Aviation Assignment Group (AAG) frequency band, which is assigned to the FAA for civil aviation use. The response to this data collection is required for the proponent to obtain FAA concurrence to use a radio frequency that impacts civil aviation. The information collected through the WebFCR portal supports the engineering, modeling, validation, and workflow management of the request to evaluate if the request interferes or impacts civil aviation operations pursuant to FAA Order 6050.32B.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 0.2 Hours.

Estimated Total Annual Burden: 960 Hours.

Issued in Washington, DC, on April 24, 2026.

Christopher S. Jones,

FAA Frequency Assignment Subcommittee Representative, Group, Spectrum Engineering and Assignment, AJW–1910.

[FR Doc. 2026–08198 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–13–P

[45] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–1156]

Parts and Accessories Necessary for Safe Operation; Intellistop, Inc.; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on Intellistop, Inc.'s (Intellistop) application for a 5-year exemption to allow motor carriers to operate commercial motor vehicles (CMVs) equipped with Intellistop's lamp module. The Intellistop module pulses the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level intensity 4 times in 2 seconds when the brakes are applied, and then returns the lights to a steady-burning state while the brakes remain engaged. FMCSA is required by statute to publish a notice explaining each exemption request and such notice does not indicate what decision FMCSA will ultimately reach on the request. After reviewing the application, safety analyses, and public comments submitted, FMCSA will grant or deny the exemption.

DATES: Comments must be received on or before May 28, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2026–1156 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2026–1156) for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Cestero, FMCSA Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety; (202) 366–5541 or *MCPSV@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2026–1156), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2026-1156/document,* click on this notice, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at *brian.g.dahlin@dot.gov.* At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* insert FMCSA–2026–1156 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket by visiting Docket Operations in Room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information

relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved without the exemption, pursuant to the standard set forth in 49 CFR 381.305(a). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

Intellistop describes its submission as a ''Petition for Reconsideration of the Federal Motor Carrier Safety Administration's October 7, 2022 denial of Intellistop's application for an exemption from the steady-burning stop lamp requirement set forth at 49 C.F.R [section] 393.25(e).''

Pursuant to 49 CFR 381.317, a party may resubmit an application for exemption providing more or different information if the original application is denied. In contrast, petitions for reconsideration under 49 CFR 389.35(a) apply to ''rules,'' not to exemption applications, and in any case must be filed within 30 days after publication of a ''rule.'' FMCSA therefore interprets Intellistop's application as a renewed exemption request, which is allowed under 49 U.S.C. 31315(b)(3), especially when—as here—the applicant has specifically addressed reasons for the denial.

II. Applicant's Request

Current Regulatory Requirements

Section 393.25(e) of the FMCSRs requires that all exterior lamps be steady burning, with certain exceptions not relevant here. Two other provisions of the FMCSRs—section 393.11(a) and section 393.25(c)—mandate that required lamps on CMVs meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 in effect at the time of manufacture. FMVSS No. 108, issued by the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), includes a requirement that installed brake lamps, whether original or replacement equipment, be steady burning.

Applicant's Request

Intellistop has applied for a 5-year exemption from 49 CFR 393.25(e) to allow motor carriers to operate CMVs equipped with Intellistop's lamp module. When the brakes are applied, the Intellistop module is designed to pulse the rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds and then to maintain the original equipment manufacturer's (OEM) level of illumination for those lamps until the brakes are released and reapplied. Intellistop asserts that its module is designed to ensure that if the module ever fails, the clearance, identification, and brake lamps will default to normal OEM function and illumination. Intellistop requests that the exemption be granted to all motor carriers subject to FMCSA's jurisdiction.

Applicant's Equivalent Level of Safety

Intellistop states that while its system modulates the photometric intensity of the required red stop lamps, it preserves the standardized signal characteristics required by FMVSS No. 108, including signal color, lamp location, and activation trigger. Intellistop asserts that because these characteristics remain unchanged, the regulatory meaning of the braking signal is preserved while enhancing its visibility and detectability to following drivers. Accordingly, Intellistop concludes that its technology enhances braking conspicuity without impairing the effectiveness or recognized meaning of required stop lamps.

Intellistop notes that FMCSA has granted exemptions to eight motor carriers to allow them to operate CMVs equipped with Intellistop's module. These motor carriers are: Gemini Motor Transport LP, Meiborg Brothers, Inc., JM Bozeman Enterprises, Inc., DJS Fundraising, Inc., Brent Higgins Trucking, Inc., Encore Flooring & Building Products, Coffeyville Resources Crude Transportation and Casey's Services Company.[1] Intellistop also cites other exemptions that FMCSA has granted, including to Groendyke Transport, Inc.,[2] and to Grote Industries, LLC,[3] for the use of auxiliary brake-activated pulsating lamps, consistent with the results of NHTSA's Enhanced Rear Lighting and Signaling Systems research program.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Intellistop's application for a 5-year exemption from 49 CFR 393.25(e). All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–08251 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–EX–P

[1] 89 FR 40529 (May 10, 2024); 89 FR 54151 (June 28, 2024); 89 FR 54136 (June 28, 2024); 89 FR 54131 (June 28, 2024); 89 FR 54125 (June 28, 2024); 89 FR 77575 (September 23, 2024); 90 FR 16062 (April 16, 2025); 90 FR 16067 (April 16, 2025).

[2] 84 FR 17910 (April 26, 2019); 89 FR 54147 (June 28, 2024); 89 FR 91872 (Nov. 20, 2024).

[3] 85 FR 78918 (Dec. 7, 2020); 90 FR 51430 (Nov. 17, 2025).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0424]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Atlantic Aviation Orlando, LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA grants Atlantic Aviation Orlando, LLC (Atlantic Aviation) an exemption from certain exhaust system requirements to allow four aircraft fuel service trucks to operate with exhaust systems that discharge forward of the cab rather than at or near the rear of the cab. FMCSA has analyzed the exemption application and the public comment and has determined that the exemption, subject to the terms and conditions set forth below, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved in the absence of the exemption.

DATES: The exemption is effective April 28, 2026 and expires April 28, 2031.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, FMCSA Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety Standards; (202) 961–1373; *MCPSV@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2025-0424/document* and choose the document to review. To view comments, click this notice, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish the decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt and the effective period and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Section 393.83(e) of the FMCSRs requires the exhaust system of a bus, truck, or truck tractor to discharge to the atmosphere at or near the rear of the cab (*i.e.,* not forward of the cab).

IV. Applicant's Request

The application from Atlantic Aviation was described in detail in a **Federal Register** notice published on November 24, 2025 (90 FR 53046) and will not be repeated as the facts have not changed.

V. Public Comments

The Agency received one comment in response to Atlantic Aviation's application. Adam Amorose expressed support for the requested exemption. Mr. Amorose stated that Atlantic Aviation's forward-discharge exhaust configuration is necessary to comply with National Fire Protection Association (NFPA) 407 section 6.1.13.4, which prohibits exhaust discharge in locations where fuel vapors may accumulate and create an ignition hazard during aircraft fueling operations. He noted that relocating the exhaust to the rear of the cab, as required by 49 CFR 393.83(e), could place hot exhaust gases near areas where jet fuel vapors are present, thereby increasing the risk of fire or explosion.

Mr. Amorose also cited Atlantic Aviation's in-cab carbon monoxide (CO) testing, which showed 0 parts per million (ppm) CO under idle and top-speed conditions, well below the Occupational Safety and Health Administration's permissible exposure limit of 50 ppm. He concluded that the data demonstrate that the forward-exhaust configuration does not compromise driver safety or cab air quality.

VI. Agency Decision

The purpose of 49 CFR 393.83(e) is to reduce the risk of exhaust gases entering the cab and to mitigate safety hazards related to exhaust discharge. In the unique operating environment of aircraft fueling vehicles, however, rear-discharging exhaust systems create an increased fire hazard by placing hot exhaust gases near aircraft fueling points and areas where flammable jet fuel vapors may be present.

Atlantic Aviation's vehicles were designed to meet NFPA 407, which is an industry consensus standard specifically intended to prevent fuel vapor ignition during aircraft fueling operations. Requiring compliance with 49 CFR 393.83(e) would undermine those fire-prevention protections.

The CO testing submitted by Atlantic Aviation demonstrates that forward exhaust discharge does not result in driver or passenger exposure to unsafe levels of exhaust gases. The measured CO concentration of 0 ppm and 8-hour time-weighted average of 0 ppm provide objective evidence that the exemption will not introduce a cab air-quality risk.

Based on the limited operating area, the short travel distance, the use of escort procedures, compliance with NFPA 407, and the verified CO exposure data, FMCSA concludes that the exemption, subject to the terms and conditions set forth below, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).

VII. Exemption

A. Applicability of Exemption

FMCSA grants the exemption for a period of 5 years subject to the terms and conditions of this decision. The exemption from the requirements of 49 CFR 393.83(e) is effective April 28, 2026, through April 28, 2031, 11:59 p.m. local time.

During the exemption period, Atlantic Aviation may operate with exhaust systems that discharge forward of the cab rather than at or near the rear of the cab on the four commercial motor vehicles identified in the terms and conditions below. FMCSA recommends that drivers have access to a paper or electronic copy of the exemption while operating under the exemption.

B. Terms and Conditions

During the exemption period, Atlantic Aviation must:

1. Maintain the exhaust systems in their approved forward-discharge configuration in compliance with NFPA 407.

2. Ensure that the exemption applies only to the four approved jet fuel service vehicles (JT–01, JT–03, JT–04, and JT–07).

3. Operate the vehicles only in support of aircraft fueling operations at Orlando International Airport and along the authorized route between the airport fuel farm and Atlantic Aviation's facility at 9245 Tradeport Drive.

4. Maintain the vehicles in a safe operating condition and comply with all other applicable FMCSRs.

C. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. Florida may, but is not required to, adopt the same exemption with respect to operations in intrastate commerce.

VIII. Termination

The exemption will be revoked if: (1) Atlantic Aviation fails to comply with the terms and conditions of the

exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Derek D. Barrs,

FMCSA Administrator.

[FR Doc. 2026–08233 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0085]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Yarde Metals, Inc., USDOT No. 299202

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Yarde Metals, Inc.'s (Yarde Metals, USDOT No. 299202) application for a limited 5-year exemption to allow the use of an amber, brake-activated, pulsating auxiliary lamp positioned in the rear center outside frame rail of each of its commercial motor vehicles (CMVs) in addition to the steady-burning brake lamps required by the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency has determined that granting the exemption would likely achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: The exemption is effective April 28, 2026 and expires April 28, 2031.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–2551; *MCPSV@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2025-0085/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews applications, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Section 393.25(e) of the FMCSRs requires all exterior lamps (both required lamps and any additional lamps) to be steady-burning, except turn signal lamps; hazard warning signal lamps; school bus warning lamps; amber warning lamps or flashing warning lamps on tow trucks and CMVs transporting oversized loads; and warning lamps on emergency and service vehicles authorized by State or local authorities.

Applicant's Request

The application from Yarde Metals was described in detail in a **Federal Register** notice published on April 16, 2025 (90 FR 16422) and will not be repeated as the facts have not changed.

IV. Public Comments

The Agency received one comment from AWM Associates, LLC (AWM), and one comment from an anonymous individual. Both comments opposed the exemption request.

The anonymous individual stated that the ''legal regulatory requirements are not in place under this application and the company has no authority to issue this type of request.''

AWM asserted that ''any exemption is a bad idea.'' AWM noted that the brake-activated pulsating lamps described in the application are not required under 49 CFR 393.11 and therefore fall outside the scope of the FMCSRs and the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards (FMVSS). AWM compared the lamp to other non-required lighting, such as ''chicken lights'' used along vehicle sides, which are generally only subject to State regulations regarding color. AWM further stated that, if such lights are installed professionally and do not interfere with a vehicle's electrical system, they are simply considered supplemental. AWM concluded that because the amber brake-activated pulsating lamp is in addition to—rather than a replacement for—the two required rear brake lights, the application should be denied, as it seeks an exemption for a feature that is not required under 49 CFR 393.11.

V. FMCSA Decision

FMCSA has evaluated Yarde Metals' exemption application materials along with the comments received. The Agency has determined that granting a temporary exemption to allow Yarde Metals to operate CMVs equipped with an amber brake-activated pulsating lamp—positioned on the rear center outside frame rail of each CMV—in addition to the steady-burning brake lamps required by the FMCSRs, would likely achieve a level of safety equivalent to or greater than the level of safety achieved without the exemption.

Rear-end crashes generally account for approximately 30 percent of all crashes. These types of crashes often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.[1] [2]

[1] U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data; Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012).

Continued

Research conducted by both FMCSA and NHTSA explored alternative rear signaling systems to address this issue. Specifically, FMCSA conducted research and development on Enhanced Rear Signaling (ERS) systems, which showed the ability of flashing lamps to draw visual attention. However, FMCSA ultimately decided not to pursue formal field operational testing of the prototype system due to concerns about implementation costs and fleets' willingness to invest in the technology. Nonetheless, the preliminary research showed that the ERS system performed well at detecting and signaling rear-end crash threats and drawing the gaze of following-vehicle drivers to the forward roadway which, if implemented, could potentially reduce the number and frequency of rear-end crashes into the rear of CMVs.

Separately, NHTSA has performed a series of research studies intended to develop and evaluate rear signaling applications designed to draw drivers' visual attention to the forward roadway.[3] The research demonstrated that people rated flashing all lights simultaneously or alternately flashing as attention-getting, even at levels of brightness within the current regulated limits.

In addition, NHTSA has conducted research on the effectiveness of rear turn signal color on the likelihood of being involved in a rear-end crash.[4] FMVSS No. 108 allows rear turn signals to be either red or amber in color. The study showed that amber signals show a 5.3 percent effectiveness in reducing involvement in two-vehicle crashes where a lead vehicle is struck from the rear in the act of turning left, turning right, merging into traffic, changing lanes, or entering/leaving a parking space. The advantage of amber rear turn signals was shown to be statistically significant.

FMCSA acknowledges the concerns raised by the individual commenter and AWM regarding the permissibility and necessity of granting an exemption for the use of amber, brake-activated, pulsating auxiliary lamps that are not explicitly required under 49 CFR 393.11. FMCSA notes that while the lamp in question is not required under 49 CFR 393.11, when it is activated by the service brake system, it is subject to the steady-burning requirement under 49 CFR 393.25(e), which applies to both required and additional exterior lamps. As such, an exemption is appropriate when a motor carrier seeks to use a non-steady-burning lamp that is otherwise regulated under this provision.

In conclusion, FMCSA is not aware of any evidence indicating that the use of brake-activated pulsating lamps—when operated under previously granted exemptions and in compliance with their conditions—has compromised safety. Considering this body of evidence, FMCSA concludes that the installation of an amber brake-activated pulsating lamp on the rear center outside frame rail of each CMV operated by Yarde Metals, in addition to the steady-burning brake lamps required by regulation, is likely to provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VI. Exemption

FMCSA grants the exemption for a period of 5 years subject to the terms and conditions of this decision. The exemption is effective April 28, 2026, through April 28, 2031, 11:59 p.m. local time, unless revoked.

A. Applicability of Exemption

During the exemption period, Yarde Metals may install an amber, brake-activated, pulsating auxiliary lamp positioned in the rear center outside frame rail of each CMV it operates in addition to the steady-burning brake lamps required by the FMCSRs.

B. Terms and Conditions

1. *Limitation of Exemption:*

- This exemption applies exclusively to CMVs operated by Yarde Metals, Inc. (USDOT No. 299202), and does not extend to any other motor carrier.

2. *Recurring Data Reporting Requirements:*

- Yarde Metals must provide recurring yearly data submissions to include information on rear-impact crashes and incidents involving CMVs equipped with Yarde Metals' amber brake-activated pulsating auxiliary lamps. The first submission is due April 28, 2027, and subsequent submissions are due every 12-months thereafter until the exemption expires or is rescinded.
- The yearly data submissions must be sent via email to FMCSA at *MCPSV@dot.gov.*
- If Yarde Metals lacks certain categories of information, alternative information may be discussed with FMCSA and submitted if approved.

3. *Data Reporting Requirements for Rear-impact Crashes and Incidents:*

- At the end of each 12-month period, Yarde Metals must submit a report detailing crash rates; vehicle miles traveled; the number and type of CMVs operating under the exemption; and crash or incident information including the date of each crash or incident, along with the time, location, and a brief description of the event.
- Yarde Metals must provide any available information indicating malfunction of, or confusion caused by the use of, Yarde Metals' amber brake-activated pulsating lamps.
- Yarde Metals must provide FMCSA with any updated point of contact for information regarding this exemption.

4. *Meetings:*

- Yarde Metals must meet with FMCSA upon request to answer questions regarding data and information provided under the exemption.

C. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

VII. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, the exemption will be revoked if: (1) Yarde Metals, Yarde Metals' CMVs, or the drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Derek Barrs,

Administrator.

[FR Doc. 2026–08232 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–EX–P

[2] U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data; Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018).

[3] U.S. Department of Transportation, National Highway Traffic Safety Administration (2009), Traffic Safety Facts—Vehicle Safety Research Notes, Assessing the Attention-Gettingness of Brake Signals: Evaluation of Optimized Candidate Enhanced Braking Signals, Report No. DOT HS 811 129, Washington, DC (May 2009).

[4] U.S. Department of Transportation, National Highway Traffic Safety Administration (2009), Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics, Report No. DOT HS 811 127, Washington, DC (April 2009).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Opportunity for the Fiscal Year 2025 and 2026 Railroad Crossing Elimination (Crossing Safety) Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Federal Railroad Administration has published a Notice of Funding Opportunity (NOFO), which details the application requirements and procedures to obtain grant funding for eligible projects for the Fiscal Year (FY) 2025 and 2026 Railroad Crossing Elimination (Crossing Safety) Program. The total funding available for awards under the NOFO is up to $1,146,528,000. The full text of the NOFO can be found on FRA's website: *https://railroads.dot.gov/elibrary/fy25-26-NOFO-RCE-crossing-safety* and at *https://www.Grants.gov* using the funding opportunity ID FR–RCE–26–001.

DATES: Applications for funding under this solicitation are due no later than 11:59 p.m. Eastern Time (ET) June 8, 2026. Applications that are incomplete or received after 11:59 p.m. ET June 8, 2026, will not be considered for funding. FRA reserves the right to modify this deadline. See Section 4 and Section 5 of the NOFO for additional information on the application process.

ADDRESSES: Applicants must submit all application materials, in their entirety, through *https://www.Grants.gov.* FRA is committed to ensuring that information is available in appropriate alternative formats to meet the requirements of persons who have a disability. If you require an alternative version of files provided, please contact *lou.lorello@dot.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, grant application submission, and processing questions, please contact *FRA-NOFO-Support@dot.gov.*

SUPPLEMENTARY INFORMATION: The full text of the NOFO can be found on FRA's website: *https://railroads.dot.gov/elibrary/fy25-26-NOFO-RCE-crossing-safety* and at *https://www.Grants.gov* using the funding opportunity ID FR–RCE–26–001. The total funding available for awards under the issued NOFO is up to $1,146,528,000.

Authority: 49 U.S.C. 22909; 2 CFR 200.204; 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026–08234 Filed 4–27–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2026–0133]

Privacy Act of 1974; System of Records

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, DOT/FRA proposes to establish a new system of records titled ''DOT/FRA 133, Post-Accident Toxicological Testing Records (PATTR).'' This system will maintain electronic records associated with toxicological testing conducted under 49 CFR part 219, subpart C. Records include required forms, laboratory test results, supporting documentation, and memoranda prepared by FRA staff evaluating whether alcohol or drug use may have been a factor in a qualifying railroad accident or incident.

DATES: Submit comments on or before May 28, 2026. The Department may publish an amended Systems of Records Notice considering any comments received. This new system of records will be effective immediately upon publication. The routine uses will be effective May 28, 2026.

ADDRESSES: You may submit comments, identified by docket number DOT–OST–2026–0133 by any of the following methods:

- *Federal e-Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Instructions:* You must include the agency name and docket number DOT–OST–2026–0133. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. You may review the Department of Transportation's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Privacy Act: Anyone can search the electronic form of all comments received in 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.).

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For questions, please contact Karyn Gorman, Departmental Chief Privacy Officer, Department of Transportation, Washington, DC 20590, Email: *privacy@dot.gov,* Tel. (202)–603–8321.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DOT/FRA is proposing a new system of records titled, ''DOT/FRA 133—Post-Accident Toxicological Testing Records.'' This system of records supports the FRA Office of Railroad Safety in the collection, processing, and storage of information related to post-accident toxicological testing, serving as the repository for new and legacy FRA post-accident toxicological testing program records, including program documentation and specimen lab results. The records covered by this notice are used to support FRA in implementing the requirements of Title 49 Code of Federal Regulations (CFR) part 219, subpart C—Post-accident toxicological testing (subpart C). Memoranda will be prepared by FRA alcohol and drug testing specialists summarizing information about post-accident toxicological test results and analyzing whether alcohol or drug use played a role in causing the accident/incident. Records may also be added to FRA's Factual Accident Reporting System (FARS) as part of FRA accident investigations.

After a railroad accident or incident that qualifies for post-accident toxicological testing (a ''qualifying event''), Subpart C requires rail industry employers to perform specimen collections and submit the specimens for testing to FRA's contract laboratory,

along with basic information forms and collection forms. The laboratory reports the results directly to FRA and, when authorized, to the employer's Medical Review Officer (MRO), who then provides the results to the employee. As provided by 49 CFR 219.211(d), FRA may share post-accident toxicological test results and supporting documentation with the National Transportation Safety Board (NTSB) when requested or may publicly disclose test results where necessary to consider them in an accident investigation in relation to determination of probable cause. Employees may request retests of specimens or submit written responses within 45 days of receiving their results. The Post-Accident Toxicological Testing Records will be included in DOT's inventory of Privacy Act system of records notices.

Privacy Act

The Privacy Act (5 U.S.C. 552a) governs how the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A ''System of Records'' is a group of any records under the control of a federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

SYSTEM NAME AND NUMBER:

DOT/FRA 133—Post-Accident Toxicological Testing Records

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained in a FedRAMP-certified third-party cloud environment. The contracts are maintained by DOT at Federal Railroad Administration, Office of Information Technology, 1200 New Jersey Ave. SE, Washington, DC 20590.

SYSTEM MANAGER(S):

Part 219 Staff Director, RRS–25, Office of Railroad Safety, FRA, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590. Email: *FRA-DrugAlcoholProgram.email@dot.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 CFR part 219, subpart C—Post-Accident Toxicological Testing; specifically, 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461 note; Div. A, Sec. 412, Public Law 110–432, 122 Stat. 4889 (49 U.S.C. 20140 note); Sec. 8102, Public Law 115–271, 132 Stat. 3894; and 49 CFR 1.89.

PURPOSE(S) OF THE SYSTEM:

Support FRA accident and incident investigations by providing toxicological testing results and documentation relevant to determining whether alcohol or drug use contributed to a qualifying accident or incident and deter alcohol and drug misuse by regulated rail industry employees. The system serves as the authoritative repository for program documentation, test results and related memoranda, and enables FRA to meet all requirements of 49 CFR part 219, subpart C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals within this system include railroad industry employees and/or contractor employees who are regulated employees. ''Regulated employee'' is defined in 49 CFR 219.5 to include a railroad employee or contractor employee who performs locomotive engineer, conductor, signal, dispatch, maintenance-of-way, or covered mechanical functions. The system also includes any on-duty railroad employees or contractor employees who were fatally injured in a qualifying event while performing duties for the railroad, regardless of whether they were regulated employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system include the following information:

- Information contained on DOT forms FRA F 6180.73, FRA F 6180.74, FRA F 6180.75, and DOT F 1380 (ATF), including names, job titles, home addresses, work addresses, telephone numbers, employer information, signatures, specimen identification numbers, and associated administrative data.
- Contact information, job titles, employer information, signatures, initials, accident identifiers, and specimen identification numbers.
- Documentation of employee responses, retest requests, or authorized disclosures under subpart C.
- Laboratory results for urine, blood, body fluid, or tissue specimens; MRO reports and verifications; and documentation of medication use or medical conditions relevant to testing.
- Requests for retesting, employee or contractor responses submitted under 49 CFR 219.211(e), and NTSB requests for toxicology data.
- Memoranda prepared by FRA specialists summarizing and analyzing test results (referencing employees only by job title).
- Legacy documents that may contain un-redacted Social Security Numbers (SSNs) or Employee Identification Numbers (EINs).

RECORD SOURCE CATEGORIES:

Records are obtained from rail industry employers and their representatives, railroad and contractor employees, Medical Review Officers, FRA's contract laboratory and any referee laboratory, and NTSB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to other disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

SYSTEM SPECIFIC ROUTINE USES:

1. To employer Medical Review Officers for purposes of verifying laboratory positive results in accordance with 49 CFR 219.103.

2. To NTSB, as authorized under 49 CFR 219.211(d) and (h), to assist and support NTSB when investigating railroad accidents.

3. To the public, where necessary to support FRA's consideration of toxicology results in accident or incident investigations, consistent with 49 CFR 219.211(d).

4. To FRA-regulated employers that employ an individual with a verified positive post-accident test result indicating alcohol or drug use prohibited under FRA regulations at 49 CFR 219.101 and 219.102.

5. To DOT-regulated employers for compliance with return-to-duty requirements under DOT drug and alcohol testing regulations at 49 CFR 219.104(d) and 49 CFR part 40.

DEPARTMENT GENERAL ROUTINE USES:

6. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

7. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

8. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

9a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when—(a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

9b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when—(a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

10. The information contained in this system of records will be disclosed to the Office of Management and Budget, OMB, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

11. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

12. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

13. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

14a. DOT may disclose records from this system to appropriate agencies, entities, and persons when: (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

14b. DOT may disclose records from this system to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

15. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of: (1) resolving disputes between Freedom of Information Act (FOIA) requesters and Federal agencies; and (2) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

16. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to

accomplish an agency function related to this system of records.

17. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically on a contractor-maintained cloud storage service and only accessed by authorized personnel with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Post-Accident Toxicological Testing records are retrieved by selecting:

- The case number assigned to the qualifying event and then the name of a railroad employee or contractor employee involved in the qualifying event who provided a specimen(s) for post-accident toxicological testing. Post-Accident Toxicological Testing records can be listed and selected by the name of the railroad employee or contractor employee.
- The specimen identification number (a function is seldom used by FRA alcohol and drug testing specialists).

The system does not retrieve records by other personal identifiers such as SSN, EIN, or birth date.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Post-Accident Toxicological Testing records will be maintained as permanent records in accordance with the National Archives and Records Administration (NARA) retention disposition schedule (RDS) currently designated for PATTS II (N1–399–08–09, Item 3). The records are transferred to NARA on an annual basis. FRA will temporarily maintain case file attachments (scanned inputs that are used to validate the data input or verify that the data was collected and tested properly) for at least 10 years in accordance with NARA Schedule N1–399–08–09, Item 2. For system data consisting of drug and alcohol test results, accident and railroad information, and scanned images of key documents sent to the testing laboratory, FRA will temporarily maintain these records for at least 7 years in accordance with NARA Schedule N1–399–08–09, Item 1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records is limited to authorized individuals who would have a need to know the information for the performance of their official duties and have the appropriate clearances or security credentials. FRA deploys role-based access controls in addition to other protection measures reviewed and certified by FRA's cybersecurity professionals to maintain the confidentiality, integrity, and availability requirements of the system.

RECORD ACCESS PROCEDURES:

Individuals seeking access to, and notification of any record contained in this system of records or seeking to contest its content may submit a request online via the Department of Transportation Public Access Link (PAL) at *https://pal.dot.gov/.* Requests submitted through these electronic channels must include a digital certification of identity.

Individuals may also submit a request in writing to the System Manager to the address provided under ''System Manager and Address'' above.

When an individual seeks records about himself or herself from this system of records or any other Departmental system of records, the request must conform with the Privacy Act regulations set forth in 49 CFR part 10. The individual's request must verify their identity by providing their full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. No specific form is required, but forms are available at *https://www.transportation.gov/resources/individuals/privacy/making-privacy-act-request.*

In addition, the individual should:

- Explain why the individual believes the Department would have information on them.
- Identify which component(s) of the Department the individual believes may have the information about them.
- Specify when the individual believes the records would have been created and provide any other information that will help FRA.

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records. Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to a lack of specificity or compliance with the consent requirements of the Privacy Act statute and regulations. Further information is available at *https://www.transportation.gov/resources/individuals/privacy/making-privacy-act-request.*

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures.''

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Issued in Washington, DC.

Karyn Gorman,

Chief Privacy Officer.

[FR Doc. 2026–08221 Filed 4–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on IRA and Trump Account Contribution Information

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 June 29, 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. 1545–0747'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: View the latest drafts of the tax forms

related to the information collection listed in this notice at *https://www.irs.gov/draft-tax-forms.* Requests for additional information or copies of this collection should be directed to Kerry Dennis, (202) 317–5751.

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: Comment Request on IRA and Trump Account Contribution Information.

OMB Control Number: 1545–0747.

Form Numbers: 5498 and 5498–TA.

Abstract: Form 5498 is used by trustees and issuers to report contributions to, and the fair market value of, an individual retirement arrangement (IRA). The information on the form will be used by IRS to verify compliance with the reporting rules under regulation section 1.408–5 and to verify that the participant in the IRA has made the contribution that supports the deduction taken. The origination of the new Form 5498–TA is to comply with the requirements set forth in Public Law 119–21, Sec.70204 and IRC Section 530A(i) which established Trump Accounts and contribution pilot programs. Form 5498–TA reports contributions, rollovers, basis or investment in the contract, and the fair market value (FMV) of the account for the calendar year shown on the form and is furnished by the trustee of the Trump account.

Current Actions: Burden has increased due to the addition of new Form 5498–TA.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits organizations.

Form 5498:

Estimated Number of Respondents: 25,000.

Estimated Number of Responses: 141,568,500.

Estimated Time per Response: 25 minutes.

Estimated Annual Burden Hours: 58,043,085 hours.

Form 5498–TA:

Estimated Number of Responses: 45,000,000.

Estimated Time per Response: 10 minutes.

Estimated Annual Burden Hours: 7,650,000 hours.

Total Estimates:

Estimated Number of Responses: 186,568,500.

Estimated Total Annual Burden Hours: 65,693,085 hours.

Dated: April 22, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026–08228 Filed 4–27–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Proposed New Information Collection; Survey of the Costs of AML/CFT Compliance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of the Treasury (Treasury) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (PRA), on or after the date of publication of this notice. The public is invited to submit comments on this request.

DATES: Comments should be received on or before May 28, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Survey of the Costs of AML/CFT Compliance.

OMB Control Number: 1506–NEW.

Type of Request: New Collection.

Description: This information collection will seek information on anti-money laundering/countering the financing of terrorism (AML/CFT) compliance costs and related topics via a survey. The survey is voluntary. The purpose of the survey is to better understand the cost of AML/CFT compliance by financial institutions [1] subject to the Bank Secrecy Act (BSA) and applicable implementing regulations (BSA-regulated financial institutions, hereinafter referred to as financial institutions),[2] and in particular for certain non-bank financial institutions (NBFIs).[3] The information gathered will help assess the cumulative impact of AML/CFT regulations and may inform efforts to adjust regulatory obligations and advance deregulatory proposals consistent with the Executive

[1] *See* 31 U.S.C. 5312(a)(2) and 31 CFR 1010.100(t) for definition of ''financial institution.'' For the purpose of the notice, the term ''financial institutions'' includes: banks; casinos and card clubs (casinos); money services businesses (MSBs); brokers or dealers in securities (broker-dealers); mutual funds; insurance companies; futures commission merchants and introducing brokers in commodities; dealers in precious metals, precious stones, or jewels; operators of credit card systems; loan or finance companies; and housing government sponsored enterprises.

[2] Certain parts of the Currency and Foreign Transactions Reporting Act, its amendments, and the other statutes relating to the subject matter of that Act, have come to be referred to as the BSA. These statutes are codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336 and notes thereto, with implementing regulations at 31 CFR chapter X.

[3] For the purpose of the notice, the term ''non-bank financial institutions'' (NBFIs) refers to any financial institution that is not a bank. Additionally, the definition of MSB (31 CFR 1010.100(ff)) covers both MSB principals and MSB agents. See 31 CFR part 1022 describing AML/CFT requirements for MSBs.

Orders of the Trump Administration.[4] The data may also support the development of deregulatory rulemakings or guidance to reduce compliance burden without compromising the effectiveness of current AML/CFT frameworks. Responses will not be used for supervisory or enforcement purposes.

FinCEN will pilot the survey by distributing it exclusively to money services businesses (MSBs) through MSB trade associations, rather than attempting to reach all NBFIs in the first instance. As a practical matter, MSBs have been subject to AML/CFT requirements since the BSA was enacted in 1970, and based on FinCEN estimates, MSBs currently represent the largest number of financial institutions subject to the BSA.[5] For these reasons, FinCEN anticipates MSBs can provide meaningful data, both in terms of quantity and quality, on AML/CFT compliance costs. FinCEN also expects higher-quality, more substantive responses when requests are conveyed through trade associations where incentives are aligned between MSBs and their trade associations in terms of ensuring accuracy and completeness of cost-benefit estimates so FinCEN can consider such estimates with respect to any existing regulatory obligations and future regulatory actions, including deregulatory actions. This targeted approach is intended to yield more focused analysis and higher-quality feedback, while keeping the data collection and review process manageable given private and public sector resource constraints. The pilot will also allow FinCEN to assess the quality of responses received. Based on its results, FinCEN will consider expanding the survey to additional NBFIs, either through trade associations or by direct outreach.

Interested members of the public may view the proposed survey questionnaire on the following web page: *https://www.fincen.gov/survey-costs-amlcft-compliance.*

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Potential Respondents: 354,172. See the table directly below.

Type of NBFI	Number of respondents
Casinos and card clubs	[a] 1,299
MSBs (Principals)	[b] 24,856
MSBs (Agents)	307,212
Insurance companies	[c] 717
Precious Metals, Stones, and Jewelry (PMSJ) dealers	[d] 6,742
Operators of credit card systems	[e] 4
Loan or finance companies	[f] 13,342
Total	354,172

[a] From the American Gaming Association, *State of the States 2025: The AGA Analysis of the Commercial Casino Industry,* May 2025, p. 14, *https://www.americangaming.org/wp-content/uploads/2025/05/AGA-State-of-the-States-.pdf.*

[b] The definition of MSB (31 CFR 1010.100(ff)) covers both principal and agent MSBs. FinCEN estimated there were 24,856 uniquely identifiable registered principal MSBs with indicia of active business operations as of the three year-ends 2023–2025. FinCEN has estimated that the number of agent MSBs is approximately 307,212 based on internal data.

[c] This estimate includes 717 life and health insurers in the United States during 2024. From U.S. Department of the Treasury, *Annual Report on the Insurance Industry* (Sept. 2025), p. 10 (*https://home.treasury.gov/system/files/311/Final%20FIO%202025%20Annual%20Report.pdf*). Neither the estimate presented here nor the estimate of broker-dealers controls for entities that may be both a broker-dealer and an insurance company; thus, a certain number of affected entities may be double-counted. However, based on consultation with staff of other Federal regulators, FinCEN believes this population of dually affected entities may be relatively small and unlikely to significantly distort the overall assessment.

[d] This estimate is based on data on firms with North American Industry Classification System code 423940 (Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers) in the U.S. Census, 2022 Statistics of U.S. Businesses, *https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html,* accessed March 1, 2025.

[e] This value is based on FinCEN review of active, U.S.-based market participants at year-end 2025.

[f] This estimate is based on data on firms with North American Industry Classification System codes 522292 (Real Estate Credit) and 522310 (Mortgage and Non-Mortgage Loan Brokers) from the U.S. Census 2022 Statistics of U.S. Businesses (*https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html*), accessed March 1, 2025.

Estimated Number of Expected Respondents: As noted above, FinCEN will pilot the survey by distributing it exclusively to MSBs through MSB trade associations, rather than attempting to reach all NBFIs in the first instance. Further, FinCEN expects that MSBs that are members of trade associations—and therefore likely to receive and respond to the proposed survey—are likely to be principal MSBs (population 24,856) rather than agents of principal MSBs. With these factors in mind, and in keeping with the trend of declining response rates across government surveys, FinCEN expects a response rate of approximately 30 percent, yielding 7,457 responses.[6]

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 7,457 responses.

Estimated Time per Response: 8 hours.

Estimated Total Annual Burden Hours: 59,656 hours.

(Authority: *44 U.S.C. 3501 et seq.*)

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–08242 Filed 4–27–26; 8:45 am]

BILLING CODE 4810–02–P

[4] *See* Executive Order (E.O.) 14192, *Unleashing Prosperity Through Deregulation,* 90 FR 9065 (Feb. 6, 2025); Office of Management and Budget (OMB), *Guidance Implementing Section 3 of Executive Order 14192* (OMB 14192 Guidance), M–25–20 (Mar. 26, 2025); and E.O. 14219, *Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,*'' 90 FR 10583 (Feb. 25, 2025); OMB, *Streamlining the Review of Deregulatory Actions,* M–25–36 (Oct. 21, 2025).

[5] See Table 1: Estimates of Covered Financial Institutions by Type, FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs Notice of Proposed Rulemaking,* 91 FR 18704, 18728–18729 (Apr. 10, 2026).

[6] Federal Reserve Bank of San Francisco, ''Do Low Survey Response Rates Threaten Data Dependence?,'' *FRBSF Economic Letter,* March 2025, *https://www.frbsf.org/research-and-insights/publications/economic-letter/2025/03/do-low-survey-response-rates-threaten-data-dependence/* (''The figure highlights a pronounced decline in the [Current Employment Statistics] response survey rate that roughly coincided with the start of the pandemic. While the response rate was hovering around 60% for the decade preceding the pandemic, it has since declined to less than 45%.'').

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before May 28, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Heavy Highway Vehicle Use Tax Return.

OMB Control Number: 1545–0143.

Type of Request: Revision of a currently approved collection.

Description: Form 2290 and 2290–SP are used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.

Form Number: Form 2290 and 2290–SP.

Affected Public: Individuals, Business or other for-profit; not-for-profit organizations.

Estimated Number of Responses: 965,100.

Estimated Time per Response: 16 hours, 33 minutes.

Estimated Total Annual Burden Hours: 15,972,406.

2. Title: Information Reporting for Payments Made in Settlement of Payment Card and Third-Party Network Transactions.

OMB Control Number: 1545–2205.

Type of Request: Revision of a currently approved collection.

Description: This information collection covers final regulations implementing amendments to the Income Tax Regulations (26 CFR part 1) relating to information reporting under sections 6041, 6041A, 6050W, and 6051 of the Internal Revenue Code (Code). The form reflects payments made in settlement of merchant card and third-party network transactions for purchases of goods and/or services made with merchant cards and through third-party networks.

Form Number: Form 1099–K.

Affected Public: Individuals or households, Business or other for-profit groups, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Respondents: 13,340,100.

Estimated Time per Response: 28 minutes.

Estimated Total Annual Burden Hours: 6,403,248.

3. Title: Revenue Procedure 2001–29, Leveraged Leases.

OMB Control Number: 1545–1738.

Type of Request: Extension of a currently approved collection.

Description: Revenue Procedure 2001–29 sets forth the information and representation required to be furnished by taxpayers in requests for advanced rulings on leveraged lease transactions. Section 3 of the Revenue Procedure sets forth a list of general information requirements, and Section 4 includes specific information requirements that taxpayers should include in an initial ruling request. This information can help the Internal Revenue Service more promptly and efficiently process the request.

Regulation Project Number: Revenue Procedure 2001–29.

Affected Public: Business or other for-profit organizations, Individuals and households, and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time per Response: 80 hours.

Estimated Total Annual Burden Hours: 800.

4. Title: Source of Income from Certain Space and Ocean Activities; Source of Communications Income.

OMB Control Number: 1545–1718.

Type of Request: Extension of a currently approved collection.

Description: TD 9305 contains final regulations under section 863(d) governing the source of income from certain space and ocean activities. The final regulations primarily affect persons who derive income from activities conducted in space, or on or under water not within the jurisdiction of a foreign country, possession of the United States, or the United States (in international water). The final regulations also affect persons who derive income from transmission of communications.

Regulatory Project Number: TD 9305.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Total Number of Annual Responses: 300.

Estimated Time per Response: 5 hours.

Estimated Total Annual Burden Hours: 1,500.

5. Title: Reverse Like-kind Exchanges.

OMB Control Number: 1545–1701.

Type of Request: Extension of a currently approved collection.

Description: The revenue procedure provides a safe harbor for reverse like-kind exchanges under which a transaction using a ''qualified exchange accommodation arrangement'' will qualify for non-recognition treatment under Sec. 1031 of the Internal Revenue Code.

Regulatory Project Number: Revenue Procedure 2000–37 (as modified by Revenue Procedure 2004–51).

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 1,600.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 3,200.

6. Title: Reimbursable Agreement—Non-Federal Entities and Statistics of Income—User Fee.

OMB Control Number: 1545–2235.

Type of Request: Extension of a currently approved collection.

Description: Form 14417, Reimbursable Agreement—Non-Federal Entities, was developed for funds in reimbursable agreements with non-federal entities such as state, local, foreign governments and non-federal public entities. Form 14417–A, Statistics of income-User Fee, was developed to be used to purchase aggregate tax return data after a customer contacts the Statistics of Income (SOI) Division requesting data not already available on our TaxStats IRS website.

Form Number: Form 14417 & 14417–A.

Affected Public: State, Local, and Tribal governments.

Estimated Number of Respondents: 65.

Estimated Time per Response: 32 minutes.

Estimated Total Annual Burden Hours: 35.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–08263 Filed 4–27–26; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 342

Five-Year Review of the Oil Pipeline Index; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 342

[Docket No. RM26–6–000]

Five-Year Review of the Oil Pipeline Index

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order establishing index level.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issues this Final Order concluding its five-year review of the index level used to determine annual changes to oil pipeline rate ceilings. The Commission establishes an index level of Producer Price Index for Finished Goods minus 0.55% (PPI–FG–0.55%) for the five-year period beginning July 1, 2026.

DATES: This order is effective June 29, 2026.

FOR FURTHER INFORMATION CONTACT: Evan Steiner (Legal Information), Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502–8792, *Evan.Steiner@ferc.gov*.

Monil Patel (Technical Information), Office of Energy Market Regulation, 888 First Street NE, Washington, DC 20426, (202) 502–8296, *Monil.Patel@ferc.gov*.

SUPPLEMENTARY INFORMATION:

1. On November 20, 2025, the Commission issued a Notice of Proposed Rulemaking initiating the five-year review to establish the oil pipeline index level for the July 1, 2026 to June 30, 2031 period.[1] The NOPR requested comment regarding its proposal to adopt an index level of Producer Price Index for Finished Goods minus 1.42% (PPI–FG–1.42%) and any alternative methodologies for calculating the index level.[2]

2. For the reasons discussed below, we adopt an index level of PPI–FG–0.55%. The departure from the NOPR results from (a) adopting the Liquid Energy Pipeline Association (LEPA) proposal to adjust the data set to account for the Commission's 2020 policy change regarding the determination of the allowed rate of return on equity (ROE) for oil pipelines and (b) other minor corrections to the data set used to calculate the index level. As proposed in the NOPR, we continue to (a) exclude from the data set pipelines' resubmitted cost data for 2019 and (b) trim the data set to the middle 80% of cost changes. The Commission's indexing calculations and other data analysis are set forth in Attachment A to this order. As discussed below, we decline to adopt the other changes to the index calculation that commenters propose.

I. Background

A. Establishment of the Indexing Methodology

3. The Energy Policy Act of 1992 (EPAct 1992) required the Commission to establish a ''simplified and generally applicable'' ratemaking methodology [3] in accordance with the just-and-reasonable standard of the Interstate Commerce Act (ICA).[4] To implement this mandate, the Commission issued Order No. 561 [5] and companion orders,[6] adopting an indexing methodology that allows oil pipelines to change their rates subject to certain ceiling levels as opposed to making cost-of-service filings and mandating annual reporting of summary cost and throughput data in pipeline annual reports (FERC Form No. 6, page 700).[7]

4. In Order No. 561, the Commission committed to review the index level every five years to ensure that it adequately reflects changes to industry costs.[8] The Commission conducted five-year index reviews in 2000,[9] 2005,[10] 2010,[11] 2015,[12] and 2020.[13] In the 2020 review, the Commission established an index level of PPI–FG + 0.78% for the five-year period beginning July 1, 2021.[14] The index level established herein results from the Commission's sixth five-year review of the index level.

B. Kahn Methodology

5. In Order No. 561 and in each five-year review, the Commission has calculated the index level using a methodology developed by Dr. Alfred E. Kahn.[15] The Kahn Methodology uses summary Opinion No. 154–B cost-of-service data from Form No. 6, page 700,[16] from the prior five-year period to determine an appropriate adjustment to be applied to PPI–FG. The calculation is as follows. Each pipeline's cost change is calculated on a per-barrel-mile basis over the previous five-year period (*e.g.,* the years 2019–2024 in this proceeding). To remove statistical outliers and potentially spurious data, the resulting data set is trimmed (*e.g.,* to the middle 80% or middle 50%) by removing an equal number of pipelines from the top or bottom of the distribution. The Kahn Methodology then calculates three measures of the trimmed dataset's central tendency: median, mean, and weighted mean.[17] The Kahn

[1] *Five-Year Rev. of the Oil Pipeline Index,* 193 FERC ¶ 61,145, at P 6 (2025) (NOPR).

[2] *Id.* PP 6–7.

[3] Public Law 102–86, 1801(a), 106 Stat. 3010 (Oct. 24, 1992), *codified at* 42 U.S.C. 7172 note. The mandate to establish a simplified and generally applicable ratemaking methodology specifically excluded the Trans-Alaska Pipeline System (TAPS), or any pipeline delivering oil, directly or indirectly, into TAPS. *Id.* 1804(2)(B).

[4] 49 U.S.C. app. 1(5).

[5] *Revisions to Oil Pipeline Reguls. Pursuant to Energy Pol'y Act of 1992,* Order No. 561, 58 FR 58753 (Nov. 4, 1993), FERC Stats. & Regs. ¶ 30,985 (1993) (cross-referenced at 65 FERC ¶ 61,109), *order on reh'g,* Order No. 561–A, 59 FR 40243 (Aug. 8, 1994), FERC Stats. & Regs. ¶ 31,000 (1994) (cross-referenced at 68 FERC ¶ 61,138), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996) (*AOPL I*).

[6] *Cost-of-Serv. Reporting & Filing Requirements for Oil Pipelines,* Order No. 571, 59 FR 59137 (Nov. 16, 1994), FERC Stats. & Regs. ¶ 31,006 (cross-referenced at 69 FERC ¶ 61,102), *order on reh'g and clarification,* Order No. 571–A, 60 FR 356 (Jan. 4, 1995), FERC Stats. & Regs. ¶ 31,012 (1994) (cross-referenced at 69 FERC ¶ 61,411), *aff'd sub nom. AOPL I,* 83 F.3d 1424.

[7] Under indexing, oil pipelines change their rate ceiling levels effective every July 1 by ''multiplying the previous index year's ceiling level by the most recent index published by the Commission.'' 18 CFR 342.3(d)(1). Pipelines may adjust their rates to a level that does not exceed the ceiling levels pursuant to the Commission's regulations so long as no protest or complaint demonstrates that the index rate change so substantially diverges from the pipeline's cost changes that the rate is unjust and unreasonable. *Id.* 343.2(c)(1).

[8] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,941, 30,947, 30,951; Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,093, 31,099, 31,105.

[9] *Five-Year Rev. of Oil Pipeline Pricing Index,* 93 FERC ¶ 61,266 (2000) (2000 Index Review), *aff'd in part and remanded sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 281 F.3d 239 (D.C. Cir. 2002) (*AOPL II*), *order on remand,* 102 FERC ¶ 61,195 (2003) (2000 Remand Order), *aff'd sub nom. Flying J Inc.* v. *FERC,* 363 F.3d 495 (D.C. Cir. 2004).

[10] *Five-Year Rev. of Oil Pipeline Pricing Index,* 114 FERC ¶ 61,293 (2006) (2005 Index Review).

[11] *Five-Year Rev. of Oil Pipeline Pricing Index,* 133 FERC ¶ 61,228 (2010) (2010 Index Review), *reh'g denied,* 135 FERC ¶ 61,172 (2011) (2010 Rehearing Order).

[12] *Five-Year Rev. of Oil Pipeline Index,* 153 FERC ¶ 61,312 (2015) (2015 Index Review), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336 (D.C. Cir. 2017) (*AOPL III*).

[13] *Five-Year Rev. of Oil Pipeline Index,* 173 FERC ¶ 61,245 (2020) (2020 Index Review), *order on reh'g,* 178 FERC ¶ 61,023 (January 2022 Rehearing Order), *reh'g denied,* 179 FERC ¶ 61,100 (2022), *vacated sub nom. Liquid Energy Pipeline Ass'n* v. *FERC,* 109 F.4th 543 (D.C. Cir. 2024) (*LEPA* v. *FERC*), *order following vacatur,* 188 FERC ¶ 61,173 (2024), *order on reh'g,* 193 FERC ¶ 61,137 (2025).

[14] 2020 Index Review, 173 FERC ¶ 61,245 at P 9.

[15] The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has affirmed the Commission's use of the Kahn Methodology. *AOPL I,* 83 F.3d at 1433–37; *Flying J Inc.* v. *FERC,* 363 F.3d at 497–500.

[16] The Opinion No. 154–B methodology is the cost-of-service ratemaking methodology that the Commission uses for oil pipelines. *Williams Pipe Line Co.,* Opinion No. 154–B, 31 FERC ¶ 61,377, *order on reh'g,* Opinion No. 154–C, 33 FERC ¶ 61,327 (1985). Every April 18, pipeline companies must file a summary Opinion No. 154–B cost-of-service on page 700 for each of the prior two years.

[17] The weighted mean assigns a different weight to each pipeline's cost change based on the

Methodology calculates (a) a composite central tendency by averaging the median, mean, and weighted mean and (b) the difference between the composite central tendency of per-barrel-mile cost changes and the percentage change in PPI–FG over the prior five-year period.[18] The Commission then sets the index level for the next five index years at PPI–FG plus or minus this differential.

C. 2025 Five-Year Review

6. On November 20, 2025, the Commission issued the NOPR initiating the five-year review to establish the index level for the July 1, 2026 to June 30, 2031 period. The NOPR proposed an index level of PPI–FG—1.42% and requested comment on this proposal and any alternative methodologies for calculating the index level.[19] The Commission explained that commenters could address issues including, but not limited to, different data trimming methodologies; whether, and if so how, the Commission should adjust the data set to address the effects of the 2020 change in Commission policy for determining oil pipelines' allowed rate of return on equity (ROE Policy Change);[20] and whether, and if so how, the index calculation should incorporate revised cost data for 2019 submitted by 61 pipelines in April-June 2025.[21]

II. Commenters

7. Initial comments in response to the NOPR were due on December 24, 2025, and reply comments were due on January 20, 2026.[22] Pipeline comments were filed by LEPA, Designated Carriers,[23] and Kinder Morgan, Inc. (collectively, Pipelines). Shipper comments were filed by Joint Commenters,[24] Liquids Shippers Group (Liquids Shippers),[25] EPR Shippers,[26] Shell Trading (US) Company (STUSCO), and the Canadian Association of Petroleum Producers (CAPP) (collectively, Shippers). Additional comments were filed by the Energy Infrastructure Council (EIC), Pipeline Safety Trust, and the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA).

8. Commenters discuss numerous issues related to the proposed index level, including data trimming, addressing the ROE Policy Change, incorporating resubmitted 2019 cost data, and treatment of pipeline cost changes attributable to regulatory obligations and other factors. In addition, to the extent the Commission trims the data set to the middle 80%, CAPP proposes to determine central tendency using the geometric mean, rather than the composite central tendency. Commenters propose varying index levels, including LEPA's proposal to adopt an index level of at least PPI–FG—0.04%,[27] Designated Carriers' proposal of PPI–FG + 0.83%,[28] Joint Commenters' and Liquids Shippers' proposals of PPI–FG—1.64%,[29] and CAPP's proposal of PPI–FG—1.85%.[30]

III. Discussion

9. We adopt an index level of PPI–FG—0.55% for the five-year period beginning July 1, 2026. As discussed below, we adopt the NOPR's proposal to calculate the index level using the middle 80% of cost changes and adopt LEPA's proposed adjustments to the cost data used to derive the index level to account for the ROE Policy Change . Consistent with the NOPR, we decline to incorporate resubmitted 2019 cost data filed by 61 pipelines in April-June 2025, and the index level adopted in this final order relies on pipelines' originally submitted 2019 cost data.[31] We decline to adopt CAPP's proposal to calculate the central tendency of the middle 80% using the geometric mean. We also address arguments regarding pipeline costs resulting from regulatory obligations and other proposed adjustments to the page 700 data set.

A. ROE Policy Change

1. NOPR Proposal

10. In the NOPR, the Commission proposed to calculate the index level without adjusting the 2019 data to reflect the ROE Policy Change that occurred during the 2019–2024 data period subject to this review. Whereas the Commission previously relied solely on the discounted cash flow (DCF) model for determining ROE for oil pipelines pursuant to the Opinion No. 154–B methodology, the Commission now averages the results of the DCF and Capital Asset Pricing Model (CAPM) analyses.[32] During the 2019–2024 data period at issue in this proceeding, the Commission adopted the ROE Policy Statement.[33] Although pipelines filed their 2019 cost data before the ROE Policy Change in 2020 and their 2024 cost data after the ROE Policy Change, in the NOPR the Commission proposed not to adjust the data to account for the ROE Policy Change. The Commission observed that it has never adjusted ROE data as part of a prior index review. In addition, the Commission expressed concern that adjusting the data to address the ROE Policy Change would be a complex endeavor that would conflict with indexing's purpose as a simplified and streamlined process.[34] The Commission encouraged commenters to address whether, and if so, how, it should address the ROE Policy Change in the index calculation.[35]

2. Comments

11. Pipelines argue that the Commission should adjust the page 700 data to account for the ROE Policy Change. Pipelines contend that this adjustment is necessary to calculate an

pipeline's total base-year barrel-miles (*e.g.,* 2019 barrel-miles).

[18] The Kahn Methodology determines the prospective index level by comparing pipeline cost changes and changes in inflation (PPI–FG) over the prior five years. Thus, in this index review, we calculate the index level that will apply beginning July 1, 2026, based on the difference between (a) industry-wide cost changes from 2019–2024 and (b) changes in PPI–FG over the same period. To the extent that the index adopted herein does not reflect the actual future difference between changes in PPI–FG and oil pipeline costs during the 2026–2031 period, those differences will be reflected in future index reviews.

[19] NOPR, 193 FERC ¶ 61,145 at PP 6–7.

[20] *Inquiry Regarding the Comm'n's Pol'y of Determining Return on Equity,* 171 FERC ¶ 61,155 (2020) (ROE Policy Statement).

[21] NOPR, 193 FERC ¶ 61,145 at P 7.

[22] Pursuant to the NOPR, reply comments were originally due on January 14, 2026. *See id.* P 29 (providing that reply comments were due 51 days after publication of the NOPR in the **Federal Register**, which occurred on November 24, 2025). By notice issued January 8, 2026, the Commission granted LEPA's unopposed request to extend the deadline for reply comments to January 20, 2026.

[23] Designated Carriers include Buckeye Partners, L.P., Colonial Pipeline Company (Colonial), Energy Transfer LP (Energy Transfer), Enterprise Products Partners L.P. (Enterprise), and Plains All American Pipeline, L.P. (Plains).

[24] Joint Commenters include Air Transport Association of America, Inc., d/b/a Airlines for America, Chevron Products Company, the National Propane Gas Association, and Valero Marketing and Supply Company.

[25] Liquids Shippers include Apache Corporation, Cenovus Energy Marketing Services Ltd., ConocoPhillips Company, Devon Gas Services, L.P., Husky Marketing and Supply Company, Occidental Energy Marketing Inc., Ovintiv Marketing Inc., and Talos Energy Inc.

[26] EPR Shippers include ExxonMobil Oil Corporation, PennEnergy Resources, LLC, and Range Resources—Appalachia, LLC.

[27] LEPA Reply Comments at 1–2; *see also* Kinder Morgan Comments at 1, 5 (supporting LEPA's comments); EIC Comments at 2, 15–16 (same).

[28] Designated Carriers Reply Comments at 2.

[29] Joint Commenters Reply Comments at 1–2; Liquids Shippers Reply Comments at 2; *see also* EPR Shippers Reply Comments at 5–6 (supporting Joint Commenters' and CAPP's comments).

[30] CAPP Reply Comments at 1.

[31] For ease of reference, this order refers to ''originally submitted 2019 cost data'' to distinguish from the more recently submitted 2019 cost data filed between April-June 2025.

[32] The DCF and CAPM models are described in the ROE Policy Statement. ROE Policy Statement, 171 FERC ¶ 61,155 at PP 18, 28, 50.

[33] ROE Policy Statement, 171 FERC ¶ 61,155.

[34] NOPR, 193 FERC ¶ 61,145 at P 13.

[35] *Id.* P 14.

index level that accurately measures cost changes during the 2019–2024 period and predicts the likely rate of future cost changes.[36] Pipelines state that the ROE Policy Change did not affect pipelines' actual equity costs and instead only changed how pipelines report allowed equity costs on page 700.[37] Thus, Pipelines contend that the Commission should adjust the reported cost data to derive an ''apples-to-apples'' comparison of pipeline costs between 2019 and 2024 under consistent ratemaking policies.[38]

12. To account for the ROE Policy Change, LEPA proposes to replace the ROEs that pipelines reported on page 700 for 2019 under the Commission's prior policy with revised ROEs that reflect the DCF/CAPM methodology adopted in the ROE Policy Statement.[39] Specifically, LEPA's experts Dr. Shehadeh and Dr. Webb derive a revised 2019 ROE by averaging the pipeline's originally filed DCF ROE for 2019 with an 8.30% CAPM return.[40] They calculate the 8.30% CAPM return using the proxy group that the Commission adopted in Opinion No. 586, modifying the calculation the Commission adopted in Opinion No. 586 to use financial data for the six-month period ending December 31, 2019, rather than the six-month period ending February 29, 2020.[41] LEPA's experts explain that the revised ROEs must be flowed through the remainder of each pipeline's page 700 summary cost of service in order to derive a total cost of service that can be used in the index calculation. Accordingly, LEPA's experts use each pipeline's revised 2019 ROE to adjust their originally reported page 700 allowed return on rate base and income tax allowances for 2019. LEPA's experts then use these adjusted figures to compute a revised 2019 total cost of service for use in the index calculation.[42]

13. LEPA contends that its proposed adjustments are consistent with Commission precedent and the purpose of indexing. LEPA states that the index aims to track actual changes in industry-wide recoverable costs, not changes to the costs that the Commission allows or deems recoverable under the Opinion No. 154–B methodology.[43] According to LEPA, its proposal would restore consistency to the page 700 ROE data using a straightforward adjustment that conforms with EPAct 1992's mandate for simplified ratemaking.[44] Pipelines observe that in the 2020 Index Review, the Commission similarly adjusted the page 700 data to account for the Commission's 2018 income tax policy change for Master Limited Partnership (MLP)-owned pipelines (Income Tax Policy Change).[45] Although the Commission rejected a proposal in the 2020 Index Review to replace pipelines' reported ROEs with standardized ROEs,[46] LEPA argues that its proposed adjustments are distinguishable because they ensure that the page 700 data reflects consistent policies following the ROE Policy Change.[47]

14. Shippers oppose LEPA's proposed adjustments and urge the Commission to adopt the NOPR's proposal to use unadjusted data that incorporates the effects of the ROE Policy Change. Shippers argue that the index aims to reflect changes in costs recoverable under the Commission's Opinion No. 154–B methodology.[48] Shippers contend that because the ROE Policy Change altered the equity costs that pipelines can recover under Opinion No. 154–B, the index should reflect the policy change's effects.[49] Shippers state that excluding the ROE Policy Change from the index calculation would cause pipelines' indexed rates to diverge from the costs recoverable under Opinion No. 154–B.[50]

15. Shippers further argue that LEPA's adjustments would distort the index calculation by overstating pipeline cost changes during the 2019–2024 period. CAPP states that LEPA's proposed CAPM ROE for 2019 is 20% lower than the DCF ROEs that 82% of pipelines reported for.[51] Thus, Shippers argue that using LEPA's ROE proposal would inflate the measure of industry-wide cost changes between 2019–2024 by establishing a lower cost baseline for 2019.[52] Joint Commenters contend that this outcome creates inconsistencies with the data used in the 2020 Index Review and undermines the index as a measure of historical cost changes.[53]

16. In addition, Shippers contend that removing the effects of the ROE Policy Change would complicate the five-year review process in violation of EPAct 1992's mandates for simplified and streamlined ratemaking.[54] For instance, Liquids Shippers state that LEPA's proposal would involve both (a) replacing the pipeline's reported page 700 ROEs with a revised ROE and (b) using the revised ROE to determine an adjusted total cost of service for each pipeline.[55] Liquids Shippers state that these calculations are significantly more complex than the data adjustments adopted in the 2020 Index Review to address the Income Tax Policy Change.[56] Additionally, Joint Commenters state that if the Commission omits the effects of the

[36] LEPA Initial Comments at 13–15, 17–18; Kinder Morgan Comments at 3.

[37] LEPA Initial Comments at 13–15 (citing *id.,* Declaration of Ramsey D. Shehadeh, Ph.D., at 13 (Shehadeh Initial Decl.)); Designated Carriers Initial Comments at 10.

[38] LEPA Initial Comments at 15; LEPA Reply Comments at 29; Designated Carriers Initial Comments at 6; Kinder Morgan Comments at 3.

[39] LEPA Initial Comments at 13–14.

[40] *Id.* at 17; Shehadeh Initial Decl., App. A § II.C.

[41] LEPA Initial Comments, Declaration of Dr. Michael J. Webb, at PP 13–14 (Webb LEPA Decl.).

[42] Shehadeh Initial Decl., App. A § II.C.

[43] LEPA Initial Comments at 18 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 17 n.31).

[44] *Id.* at 17; LEPA Reply Comments at 26–27.

[45] LEPA Initial Comments at 14; LEPA Reply Comments at 23–24 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 16); EIC Comments at 19–20. While the Commission issued a supplemental notice of proposed rulemaking (Supplemental NOPR) in October 2024 proposing to recalculate the index level using unadjusted data that reflected the effects of the Income Tax Policy Change, *see Suppl. Rev. of Oil Pipeline Index Level,* 189 FERC ¶ 61,030 (2024), LEPA argues that this proposal has no legal force because the Commission subsequently withdrew the Supplemental NOPR. LEPA Reply Comments at 23; *see also Suppl. Rev. of Oil Pipeline Index Level,* 193 FERC ¶ 61,136 (2025) (Supplemental NOPR Withdrawal) (withdrawing Supplemental NOPR).

[46] 2020 Index Review, 173 FERC ¶ 61,245 at PP 45–50.

[47] LEPA Initial Comments at 17–18; LEPA Reply Comments at 23.

[48] Joint Commenters Initial Comments at 44–45 (citing *AOPL III,* 876 F.3d at 345–46; 2015 Index Review, 153 FERC ¶ 61,312 at P 13); Liquids Shippers Reply Comments at 9.

[49] *E.g.,* Joint Commenters Initial Comments at 44–46; Joint Commenters Reply Comments at 17. Shippers contend that changes to costs recoverable under Opinion No. 154–B represent ''actual'' cost changes that should be captured in the index calculation. Joint Commenters Initial Comments at 45; Joint Commenters Reply Comments at 16.

[50] Joint Commenters Reply Comments at 19; Liquids Shippers Reply Comments at 10 (citing Reply Aff. of Elizabeth H. Crowe at 6, 8 (Crowe Reply Aff.)).

[51] CAPP Reply Comments, Christensen Associates Reply Report at 8–9 (Christensen Reply Report) (stating that 176 of 215 pipelines that filed page 700 data for 2019 reported ROEs above 10.3%).

[52] *See* Joint Commenters Reply Comments at 24–25; CAPP Reply Comments, Christensen Reply Report at 8.

[53] Joint Commenters Reply Comments at 24–25 (citing *id.,* Brattle Group Reply Report at PP 85–87 (Brattle Reply Report)). Specifically, Joint Commenters state that when using unadjusted page 700 data and trimming to the middle 80%, industry-wide costs increased by 6.7% from 2014–2019 and by 18.1% from 2019–2024, for a cumulative increase of 24.8% between 2014–2024. *Id.* at 25 (citing Brattle Reply Report at P 87). However, Joint Commenters state that adopting LEPA's adjustments to the 2019 data in this proceeding would erroneously imply that industry-wide costs increased by 24.7% from 2019–2024, inflating the measure of cumulative cost changes from 2014–2024 to 33.1%. *Id.* (citing Brattle Reply Report at P 87).

[54] Joint Commenters Initial Comments at 48 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 50); EPR Shippers Initial Comments at 13–14 (same); STUSCO Initial Comments at 9; STUSCO Reply Comments at 8.

[55] Liquids Shippers Reply Comments at 8 (citing Shehadeh Initial Decl. at 20).

[56] *Id.* at 8–9 (citing Crowe Reply Aff. 5).

ROE Policy Change from the index calculation, the only alternative method of reflecting the policy change in rates would be through burdensome cost-of-service litigation.[57]

17. Shippers argue, moreover, that adopting LEPA's adjustments would depart from Commission precedent. Shippers emphasize that the Commission has never previously adjusted ROE data in an index review and specifically declined to replace pipelines' reported ROEs in the 2020 Index Review.[58] Although the Commission adjusted the data set in the 2020 Index Review to address the Income Tax Policy Change, Shippers argue that the Commission has since expressed concerns with this decision because it departed from the Commission's longstanding practice of using unadjusted data.[59] Joint Commenters state that adjusting the reported data to exclude the ROE Policy Change would conflict with the Commission's treatment of a 2005 accounting order in the 2010 Index Review.[60] Moreover, Joint Commenters contend that adjusting 2019 ROEs to reflect a 2020 policy change would conflict with the Commission's method for evaluating whether rates remain grandfathered under EPAct 1992, which measures cost of equity in prior periods using the methodology then in effect.[61]

18. Furthermore, Shippers argue that LEPA's adjustments suffer from methodological flaws. Shippers contend that using a single CAPM result for all pipelines in the data sample is improper because pipelines' ROEs can vary based upon differences in risk.[62] Similarly, Shippers state that it is unclear whether LEPA's proposed CAPM ROE and the pipeline's originally filed DCF ROE reflect the same proxy group[63] or whether LEPA's proposed CAPM analysis conforms with the CAPM analyses that pipelines used in reporting their 2024 ROEs.[64] CAPP states that averaging LEPA's proposed CAPM return with pipelines' originally filed 2019 ROEs produces a weighted average cost of equity of 9.61%, which is less than the industry-wide cost of equity for every year since 2013.[65] CAPP further states that whereas LEPA's proposal implies that industry-wide ROEs increased from 2019–2024, a DCF analysis of LEPA's proxy group used to determine its ROEs shows that ROEs declined over this period.[66]

19. Shippers claim, moreover, that Dr. Shehadeh committed several errors in applying LEPA's proposed adjustments.[67] For example, Joint Commenters state that Dr. Shehadeh proposes to adjust the 2019 data for pipelines that reported identical ROEs throughout the 2019–2024 period, even though the ROE Policy Change did not affect those pipelines' page 700 reporting.[68]

3. Commission Determination

20. After consideration and upon review of the comments, we modify our proposal in the NOPR and find that it is reasonable to adjust the page 700 data set to account for the ROE Policy Change in 2020.[69] As such, in calculating the index level, we average each pipeline's originally reported ROE for 2019 with the 8.30% CAPM ROE proposed by LEPA.[70] As further explained below, however, for those pipelines that filed identical ROEs throughout the 2019–2024 period, we find it reasonable to use the ROE reported on page 700 for both 2019 and 2024 without adjustment given that the ROE Policy Change did not affect how the pipeline reported its ROE. In addition, we find it reasonable to apply LEPA's proposed corresponding adjustments to pipelines' original 2019 income tax allowance, return on rate base, and total cost of service in calculating the index level.[71]

21. We find that adjusting the data used to calculate the index level to account for the ROE Policy Change is consistent with the Commission's findings addressing changes to the Opinion No. 154–B methodology in the most recent 2020 Index Review.[72] In that proceeding, the Commission adjusted pipelines' reported cost data for 2014 to account for the Income Tax Policy Change,[73] which altered the Opinion No. 154–B methodology by requiring MLP pipelines to eliminate the income tax allowance and previously accrued Accumulated Deferred Income Taxes balances from their page 700 summary costs of service.[74] Consistent with the NOPR, we

[57] Joint Commenters Initial Comments at 48 (citing *id.,* Brattle Group Report at P 162 (Brattle Initial Report)).

[58] *E.g.,* EPR Shippers Initial Comments at 13–14 (citing NOPR, 193 FERC ¶ 61,145 at P 13; 2020 Index Review, 173 FERC ¶ 61,245 at P 50); Joint Commenters Reply Comments at 20–21 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 49); CAPP Reply Comments at 3.

[59] STUSCO Initial Comments at 10 (citing Supplemental NOPR, 189 FERC ¶ 61,030 at P 28). Shippers acknowledge that the Commission has withdrawn the Supplemental NOPR that proposed to recalculate the index level adopted in the 2020 Index Review using unadjusted data that incorporates the Income Tax Policy Change. However, STUSCO states that the Commission withdrew this proposal for prudential reasons without endorsing the 2020 Index Review's reasoning for adjusting the reported data. *Id.* (citing Supplemental NOPR Withdrawal, 193 FERC ¶ 61,136 at PP 31–33).

[60] Joint Commenters state that although the Commission revised its policies governing the accounting treatment of integrity management costs in 2005, it calculated the index level in the 2010 Index Review using unadjusted Form No. 6 data that reflected both the previous and revised accounting policies. Joint Commenters Initial Comments at 47 (citing 2010 Index Review, 133 FERC ¶ 61,228 at PP 120, 125; *Jurisdictional Pub. Utils. & Licensees,* 111 FERC ¶ 61,501 (2005) (2005 Accounting Order)).

[61] *Id.* at 45 (citing *Tesoro Refin. & Mktg. Co.* v. *Calnev Pipe Line LLC,* 134 FERC ¶ 61,214, at P 68 (2011)); Joint Commenters Reply Comments at 18 (same).

[62] Joint Commenters Reply Comments at 20–21 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 49); CAPP Reply Comments, Christensen Reply Report at 6–7 (citing ROE Policy Statement, 171 FERC ¶ 61,155 at P 6).

[63] Joint Commenters Reply Comments at 20, 23 (citing ROE Policy Statement, 171 FERC ¶ 61,155 at PP 58–66) (arguing that the Commission's policy contemplates using a single proxy group to determine a pipeline's ROE). CAPP further argues that Dr. Webb improperly applies size premium adjustments to the members of his CAPM proxy group based upon their size relative to the companies in the S&P 500, rather than their size relative to other pipelines in the page 700 data set. CAPP Reply Comments, Christensen Reply Report at 7–8.

[64] CAPP Reply Comments, Christensen Reply Report at 10.

[65] *Id.* at 9.

[66] *Id.* at 9–10 (stating that DCF ROEs declined from 12.53% in 2019 to 11.32% in 2024).

[67] Joint Commenters Reply Comments at 23–24 (citing Brattle Reply Report at PP 110–111) (arguing that LEPA erred by (a) adjusting Mustang Pipe Line LLC's (Mustang) 2019 ROE, which was already revised to reflect the DCF/CAPM methodology, (b) averaging its 8.30% CAPM result, which reflects a full year of operations, with Enterprise Crude Pipeline LLC's (Enterprise Crude) reported 5.43% DCF ROE for 2019, which reflects only six months of operations, (c) applying its adjustments to Total Petrochemicals Pipeline USA, Inc. (Total), which reported a negative rate base in 2019, and (d) averaging its CAPM ROE with Bridger Pipeline LLC's (Bridger) original 2019 ROE, which a Commission audit report found was not determined using the DCF methodology).

[68] *Id.* (citing Brattle Reply Report at PP 108–109) (observing that Dr. Shehadeh proposes to adjust Colonial Pipeline Company's and CITGO Pipeline Company's original page 700 ROEs for 2019 notwithstanding that those pipelines reported consistent ROEs for every year between 2019–2024).

[69] *E.g., Vanda Pharms., Inc.* v. *Ctrs. for Medicare & Medicaid Servs.,* 98 F.4th 483, 498 (4th Cir. 2024) (''The notice-and-comment procedure is designed so that an agency can float a potential rule to the public without committing itself to enacting the proposed rule's content.''); *see also FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

[70] As discussed in section III.B, we decline to use the resubmitted 2019 cost data that 61 pipelines filed in 2025 to calculate the index level. Accordingly, we apply the same adjustments to the data for those 61 pipelines as to the rest of the data set, as discussed in this section.

[71] Shehadeh Initial Decl. at 49–50.

[72] When addressing this issue for the first time in the 2020 Index Review, the Commission adjusted the reported page 700 data for 2014 to account for the Income Tax Policy Change. 2020 Index Review, 173 FERC ¶ 61,245 at PP 16–20.

[73] 2020 Index Review, 173 FERC ¶ 61,245 at PP 16–20.

[74] *Inquiry Regarding the Comm'n's Pol'y for Recovery of Income Tax Costs,* 162 FERC ¶ 61,227, at PP 8, 45–46 (2018).

have considered these issues anew,[75] and we continue to find the reasoning in the 2020 Index Review persuasive and applicable here.

22. First, we conclude that the adjustments to the data to account for the ROE Policy Change are necessary to calculate an index level that accurately tracks actual industry-wide cost changes. As the Commission explained in the 2020 Index Review, although the Commission calculates the index level using Opinion No. 154–B cost data reported on FERC Form No. 6, page 700, changes to the Opinion No. 154–B methodology are distinct from pipelines' actual annual cost changes.[76] Thus, where the Commission modifies an Opinion No. 154–B cost-of-service policy used to measure recoverable costs partway through the five-year review period, the Opinion No. 154–B costs of service reported on page 700 for the first and last years of the period will reflect different sets of policies.[77] Here, because the Commission adopted the ROE Policy Change in 2020, pipelines reported cost data for 2019 and 2024 using different ROE methodologies. Accordingly, adjusting the data set to account for the policy change enhances the index calculation by allowing an ''apples-to-apples'' comparison of pipeline cost data measured using a single set of Opinion No. 154–B cost-of-service policies.[78] By contrast, using data that reflect one set of Opinion No. 154–B policies for 2019 and another for 2024 provides a less accurate measure of pipelines' actual cost changes.

23. Second, we conclude that it would be improper for the Commission to use unadjusted cost data that captures the downward effects of the ROE Policy Change on industry-wide page 700 costs. As the Commission stated in the 2020 Index Review, indexing allows for incremental rate adjustments to allow pipelines to recover normal cost changes in future years.[79] The index should not function as a vehicle for incorporating into rates cost-of-service policy changes that occurred during the prior five-year period.[80] Thus, we find that it is reasonable to calculate the index level using adjusted 2019 cost data that reflects the same ROE methodology as the 2024 cost data.

24. We also find that LEPA's proposed approach for modifying the 2019 cost data to account for the ROE Policy Change is reasonable based on the record. LEPA's calculation of an 8.30% CAPM return is consistent with the Commission's application of the ROE Policy Statement in Opinion No. 586. In addition, averaging LEPA's calculated 8.30% CAPM return with pipelines' originally filed DCF-based ROEs produces cost data that is more consistent with the ROE Policy Statement for purposes of calculating the index level. Furthermore, because ROE is an input used to determine income tax allowance, return on rate base, and total cost of service, adjusting pipelines' 2019 ROE data necessitates corresponding adjustments to pipelines' originally reported income tax allowances, returns on rate base, and total costs of service for 2019 to fully address the effects of the ROE Policy Change in calculating the index level.

25. However, we decline to adopt LEPA's proposal to adjust the 2019 cost data for pipelines that reported an identical ROE for each year of the 2019–2024 period.[81] We agree with Joint Commenters that in these circumstances, the ROE Policy Change does not appear to have affected how the pipeline reported its ROE on page 700, and it is not clear that each of these pipeline's 2019 data reflect different Opinion No. 154–B policies than their 2024 data. Thus, because the ROE Policy Change did not render those pipelines' 2019 data inconsistent with their 2024 data, it is unnecessary to adjust their 2019 data to address the policy change's effects.

26. We are unpersuaded by Shippers' arguments against adjusting the 2019 cost data to account for the ROE Policy Change. We disagree with Shippers' claims that adjusting pipelines' 2019 page 700 ROEs using LEPA's CAPM result will inflate the index level. To the extent that pipelines' adjusted 2019 ROEs reflecting the updated combined DCF/CAPM methodology fall below their originally reported 2019 ROEs reflecting the prior DCF-only methodology,[82] this does not establish that adjusting 2019 cost data will distort the index calculation. To the contrary, as discussed above, this approach better accounts for actual industry-wide cost changes during the 2019–2024 period by measuring pipeline costs in 2019 and 2024 using the same set of ratemaking policies. We are likewise unconvinced by Joint Commenters' argument that using 2019 data in this index review that differs from the 2019 data used in the 2020 review will produce a distorted measure of pipeline cost changes from 2014–2024.[83] Our task in this proceeding is to calculate the index based upon pipeline cost changes from 2019–2024,[84] and following the ROE Policy Change, comparing pipelines' 2024 cost data (which reflects the updated ROE methodology) with the unadjusted 2019 data considered in the 2020 Index Review (which reflects the prior ROE methodology) would result in an inaccurate measure of industry cost changes.

27. Similarly unavailing is Shippers' argument that adjusting the data set used to calculate the index level to address the ROE Policy Change would complicate the five-year review process in violation of EPAct 1992. To the contrary, the adjustments adopted herein provide a straightforward solution to the page 700 data inconsistencies resulting from the ROE Policy Change. We acknowledge Liquids Shippers' claim that these adjustments are more complex than the data adjustments addressing the Income Tax Policy Change in the 2020 Index Review.[85] However, any additional complexity relative to the Income Tax Policy Change that occurred during the 2020 Index Review period does not dissuade us from adjusting the data to reflect the ROE Policy Change. Although we recognize that any changes to the reported page 700 data introduce a degree of additional complexity, we conclude that the benefits of more accurately measuring actual industry cost changes during the five-year review period by using consistent ratemaking

[75] NOPR, 193 FERC ¶ 61,145 at P 14 n.32.

[76] 2020 Index Review, 173 FERC ¶ 61,245 at P 17.

[77] *Id.*

[78] *Id.* (''Just as a business must account for changes to its accounting policies when comparing its costs over two different periods, we must make a similar adjustment to the reported page 700 data . . . to derive an 'apples-to-apples' comparison of pipeline cost changes.'').

[79] *Id.* P 18.

[80] *Id.; see also* Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,950 (explaining that indexing ''merely preserves the value of just and reasonable rates in real economic terms'' by allowing pipelines to implement inflation-based adjustments ''to preserve [rates'] real value in real terms'').

[81] *See* Attach. A at Ex. 8 tab (listing 20 pipelines that filed a single ROE value for the full 2019–2024 period).

[82] *See* Joint Commenters Reply Comments at 24–25; CAPP Reply Comments, Christensen Reply Report at 8–9.

[83] Joint Commenters Reply Comments at 24–25 (citing Brattle Reply Report at PP 85–87). The dissent refers to this concern as a ''stitching problem.'' We note that the Commission's prior index published in 2020 contained a similar ''stitching problem'' caused by the adjustments to account for the Income Tax Policy Change. The Commission treats each five-year period as an independent study period, and within this framework accounts for actual changes in costs, which in these cases required adjustments that lead to the effect noted here.

[84] We adjust pipelines' previously reported 2019 cost data in this proceeding for the limited purpose of measuring industry-wide cost changes from 2019–2024 to calculate the index level that will apply beginning July 1, 2026. The data adjustments adopted herein do not apply for any purpose beyond the index calculation performed in this proceeding.

[85] Liquids Shippers Reply Comments at 8–9 (citing Crowe Reply Aff. 5).

policies support adjusting the reported data notwithstanding these concerns. Along similar lines, while Joint Commenters contend that omitting the effects of the ROE Policy Change from the index will increase cost-of-service litigation,[86] this argument rests on speculation and, in any case, does not justify leaving the data inconsistencies resulting from the policy change unaddressed.

28. We disagree with Shippers' claim that adjusting the reported data to address the ROE Policy Change conflicts with Commission precedent. As an initial matter, this approach conforms with the 2020 Index Review, where the Commission similarly adjusted the reported page 700 data to account for the Income Tax Policy Change.[87] Although the Commission has not previously revised ROE data in an index review,[88] this fact does not dissuade us from adjusting the ROE data here.[89] Furthermore, while the Commission declined to adjust pipelines' reported ROEs in the 2020 Index Review,[90] the adjustments rejected in that proceeding are distinguishable from those adopted here. In contrast to this proceeding, where the reported data for 2019 and 2024 reflect different ROE policies, the data considered in the 2020 Index Review reflected a single ROE policy.[91] As a result, because there was no intervening change to the Commission's ROE policy for oil pipelines during the 2014–2019 review period, the Commission reasonably declined to adopt the proposed adjustments to the pipeline cost data consistent with its general policy of calculating the index level using pipeline cost data as reported on FERC Form No. 6, page 700.

29. We likewise disagree with Joint Commenters' claim that removing the effects of the ROE Policy Change is inconsistent with the Commission's treatment of the 2005 Accounting Order. Unlike the ROE Policy Change, the 2005 Accounting Order did not modify the Commission's Opinion No. 154–B methodology and instead merely clarified how pipelines should report new integrity management costs using the Commission's existing policies.[92] Because the Commission's policies were the same before and after the 2005 Accounting Order, it was unnecessary to modify the Form No. 6 data used to calculate the index level in the 2010 Index Review. In any case, regardless of the Commission's determinations in the 2010 Index Review, our task in this proceeding is to calculate the index level based upon pipeline cost changes from 2019–2024, and for the reasons explained above, we find that adjusting the data to account for the ROE Policy Change provides a more accurate measure of actual industry-wide cost changes.

30. Joint Commenters' argument that removing the effects of the ROE Policy Change conflicts with the Commission's grandfathering policies is similarly unavailing. Pursuant to EPAct 1992, the Commission determines whether rates are no longer subject to grandfathering protection by measuring changes in the pipeline's actual ROE to evaluate whether a ''substantial change'' has occurred in the ''economic circumstances of the oil pipeline which were a basis for the rate.'' [93] In applying this substantial-change analysis, the Commission has found that changes in the Commission's ratemaking policies contribute to changes in the ''economic circumstances'' that formed a basis for the grandfathered rate.[94] Accordingly, this policy arises from the specific language governing grandfathered rates in section 1803(b)(1)(A) of EPAct 1992 and is thus separate from the indexing methodology established pursuant to section 1801(a).[95] For the reasons discussed above, we conclude that using adjusted pipeline cost data based upon a consistent ROE methodology will produce a more accurate measure of actual industry-wide cost changes for purposes of calculating the index level in this proceeding.

31. Furthermore, we are unpersuaded by Shippers' claims that LEPA's adjustments are flawed because they average pipelines' reported ROEs for 2019 with the single CAPM return proposed by LEPA.[96] We acknowledge that in the 2020 Index Review, the Commission expressed concerns with adopting a single ROE for all pipelines in the data sample.[97] It is also true that pipelines' ROEs can vary based upon differences in risk.[98] However, unlike the 2020 Index Review, the instant industry-wide index review involves distinct circumstances where pipelines' cost data for the first and last years of the review period reflect different ROE policies. To the extent that LEPA's proposed CAPM return does not precisely measure the cost of equity for all pipelines in the data set, this imprecision is justified by the need to resolve the data incongruities resulting from the ROE Policy Change. We find that averaging LEPA's proposed single CAPM return with pipelines' originally filed 2019 DCF ROEs provides a reasonable method of addressing the ROE Policy Change that coheres with EPAct 1992's mandates for simplified and streamlined ratemaking.[99] Shippers

[86] Joint Commenters Initial Comments at 48 (citing Brattle Initial Report at P 162).

[87] 2020 Index Review, 173 FERC ¶ 61,245 at PP 16–20. Contrary to Shippers' suggestion that the Commission departed from the reasoning in the 2020 Index Review in the January 2022 Rehearing Order and the Supplemental NOPR, the 2020 Index Review remains valid precedent because the D.C. Circuit has vacated the January 2022 Rehearing Order and the Commission has withdrawn the Supplemental NOPR. *LEPA* v. *FERC,* 109 F.4th at 549 (vacating January 2022 Rehearing Order); Supplemental NOPR Withdrawal, 193 FERC ¶ 61,136 at P 21; *see also, e.g., Keystone-Conemaugh Projects* v. *EPA,* 100 F.4th 434, 446 (3d Cir. 2024) (citing *Ala. Power Co.* v. *EPA,* 40 F.3d 450, 456 (D.C. Cir. 1994)) (''[A] vacated agency action is a nullity that has no force and effect.'').

[88] EPR Shippers Initial Comments at 13–14; CAPP Reply Comments at 3; *see also* NOPR, 193 FERC ¶ 61,145 at P 13 (observing that ''[t]he Commission has never adjusted ROE in a prior index proceeding'').

[89] Because this proceeding marks the first index review where the Commission revised its ROE policy for oil pipelines during the relevant review period, the need to adjust the Form No. 6 data to reflect consistent ROE policies did not arise in any prior review.

[90] 2020 Index Review, 173 FERC ¶ 61,245 at PP 45–50.

[91] *See id.* P 46 (explaining that the Commission's policies required pipelines to determine their page 700 ROEs using the DCF-only method in both 2014 and 2019).

[92] 2005 Accounting Order, 111 FERC ¶ 61,501 at P 1 (explaining that the 2005 Accounting Order ''interprets the Commission's existing accounting rules''). To the extent that some pipelines revised their accounting practices in response to the 2005 Accounting Order because they previously did not adhere to the Commission's preexisting policies, *see id.* PP 8, 19, a shift in accounting practices by only a subset of pipelines in the data set would not necessarily justify an adjustment to data used in the industry-wide index. *See* Supplemental NOPR Withdrawal, 193 FERC ¶ 61,136 at PP 32, 34. By contrast, because the ROE Policy Change revised the policies that all pipelines must follow in determining their page 700 ROE, an adjustment to the index level calculation is appropriate here.

[93] EPAct 1992 1803(b)(1)(A); *see also, e.g.,* Opinion No. 586, 185 FERC ¶ 61,126 at P 363 (citing *Tesoro,* 134 FERC ¶ 61,214 at PP 2, 59, 63).

[94] *See* Opinion No. 586, 185 FERC ¶ 61,216 at P 416; *Tesoro,* 134 FERC ¶ 61,214 at P 68.

[95] *Compare* EPAct 1992 1801(a) *with id.* 1803(b)(1)(A).

[96] Joint Commenters Reply Comments at 20–21 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 49); CAPP Reply Comments, Christensen Reply Report at 6–7 (citing ROE Policy Statement, 171 FERC ¶ 61,155 at P 6).

[97] 2020 Index Review, 173 FERC ¶ 61,245 at P 49 (finding that Liquids Shippers had not demonstrated that their proposed standardized ROE figure accurately measures the investor-required cost of equity for all pipelines in the data set).

[98] *Id.* (''Given that oil pipelines have diverse business models and different risk levels, we cannot simply assume that any single ROE could reflect the investor-required return for all pipelines in the data set.'').

[99] Further, as explained above, Dr. Webb's 8.30% CAPM return adheres to the Commission's determinations in Opinion No. 586, whereas Liquids Shippers' proposed 2019 ROE in the 2020 Index Review was solely based on testimony by one participant in the rate proceeding. *Id.* (noting that Liquids Shippers' proposed 2019 ROE was ''a figure

Continued

have not proposed a superior alternative adjustment.[100]

32. Moreover, to the extent that Shippers' arguments imply that the Commission is obligated to determine an individualized CAPM return for each pipeline in the data set, we find this would be a complex and difficult undertaking that runs counter to EPAct 1992's mandate and is not necessary to develop a reasonable measure of actual industry-wide cost changes during this five-year review period. For the same reasons, we find that the adjustments to account for the ROE Policy Change are just and reasonable notwithstanding Shippers' arguments that the proxy group used in LEPA's proposed CAPM analysis may differ from the proxy groups that pipelines used to determine their original 2019 ROEs.[101] As Joint Commenters observe, in determining an individual pipeline's just and reasonable ROE in a cost-of-service rate proceeding, the Commission has performed the DCF and CAPM analyses using a single proxy group.[102] However, in these circumstances, we find that LEPA's proposed adjustment is a reasonable approach to resolving the data incongruities resulting from the ROE Policy Change.[103] In contrast, determining a separate CAPM return for each pipeline in the data set using the same proxy group used in developing its originally reported DCF return would be a complex undertaking that would complicate and prolong the five-year review process contrary to EPAct 1992.[104]

33. Shippers' remaining challenges to LEPA's proposed ROE are likewise unpersuasive.[105] We reject Joint Commenters' argument that LEPA's DCF/CAPM result is inaccurate because it differs from the revised 2019 ROEs that three pipelines filed in 2020 and 2021 following the ROE Policy Statement.[106] Since those pipelines filed their revised ROEs, the Commission further refined the application of its ROE methodology for oil pipelines in Opinion No. 586.[107] Thus, applying the ROE policy that incorporates the changes adopted in Opinion No. 586 necessarily produces a different result than ROE analyses that predate Opinion No. 586. Similarly, CAPP's argument that a DCF analysis of the companies in Dr. Webb's proxy group shows that ROE costs declined between 2019–2024 does not undermine Dr. Webb's calculations.[108] The DCF and CAPM analyses are different calculations that use different data.[109] Accordingly, to the extent that pipeline returns from 2019–2024 determined using the DCF/CAPM ROE method differed from the returns using the DCF ROE method over the same period, this does not establish that the DCF/CAPM returns are inaccurate. For these reasons, we are likewise unpersuaded by CAPP's claim that LEPA's proposed 8.30% CAPM return is lower than both (a) the DCF returns that most pipelines reported for 2019 and (b) the industry-wide average DCF returns since 2013.[110] Because the CAPM and DCF analyses use different data, the fact that LEPA's 8.30% CAPM return differs from pipelines' reported DCF returns does not demonstrate that the CAPM return provides an inaccurate measure

that a participant has proposed in an ongoing hearing on which neither the Presiding Judge nor the Commission have opined''). For this reason, the Commission concluded in the 2020 Index Review that determining a just and reasonable ROE would be a fact-intensive inquiry that could complicate and prolong the five-year review process in violation of EPAct 1992. *Id.* P 50. In contrast here, LEPA's proposed ROE does not raise the same level of concerns because it is based on the Commission's prior determinations in Opinion No. 586.

[100] To the extent that other pipelines may have calculated different CAPM results for 2019 (*see* Brattle Reply Report at PP 94, 110 (referencing revised Form No. 6 filings by Plains, Rocky Mountain, and Mustang in 2020 and 2021)) or different CAPM results could be calculated in 2019, LEPA's proposed CAPM result of 8.30% is the only CAPM result in the record where the Commission and other participants in this proceeding are aware of how it was calculated. Moreover, LEPA's CAPM analysis is consistent with Opinion No. 586.

[101] Joint Commenters Reply Comments at 23 (citing ROE Policy Statement, 171 FERC ¶ 61,155 at PP 58–66).

[102] *See* Opinion No. 586, 185 FERC ¶ 61,126 at PP 114, 129 (determining oil pipeline's DCF and CAPM returns using identical proxy group); *Panhandle E. Pipe Line Co.,* Opinion No. 885, 181 FERC ¶ 61,211, at PP 168, 170 (2022) (determining natural gas pipeline's DCF and CAPM returns using identical proxy group), *order on reh'g,* Opinion No. 885–A, 184 FERC ¶ 61,181 (2023).

[103] The only DCF/CAPM result in the record that is based on a matching proxy group was developed by LEPA's expert Dr. Webb, in which he used a DCF result of 10.12% and a CAPM result of 8.30%, leading to an ROE of 9.21%. However, using that combined DCF/CAPM result for every pipeline would lead to a lower ROE and lower overall 2019 total cost of service for 212 out of 244 pipelines in the data set, thereby leading to a higher index level. Attach. A at Ex. 14 tab. No commenter has advocated for such an approach in this record.

[104] *See* 2020 Index Review, 173 FERC ¶ 61,245 at P 49. Developing a proxy group can be an extensive endeavor on a full record involving specific consideration of each proxy group member. *See, e.g., Chevron Prods. Co.* v. *SFPP, L.P.,* Opinion No. 571, 172 FERC ¶ 61,207, at PP 148–189 (2020). Moreover, we lack information regarding the proxy group used by every pipeline for the originally filed 2019 page 700 ROEs, and so we would have no way of ensuring that the originally filed DCF return would use the same proxy group as LEPA's proposed CAPM return.

[105] We are not persuaded by Joint Commenters' argument that LEPA's adjustments are flawed based on their treatment of Enterprise Crude, Total, Bridger, and Mustang. *See* Joint Commenters Reply Comments at 23–24 (citing Brattle Reply Report at PP 110–111). We recognize that Enterprise Crude's original 2019 ROE reflects only six months of operations, whereas LEPA's CAPM result reflects 12 months of operations. However, even if Enterprise Crude's original ROE is adjusted to resolve this concern, Enterprise Crude would fall outside the middle 80% sample that we use to calculate the index level. *See* Attach. A at Model tab. Likewise, regarding Joint Commenters' statement that Total reported a negative rate base for 2019, we do not consider Total's data in deriving the index because it is not within the middle 80%. Moreover, although a Commission audit report concluded that Bridger did not adhere fully to the Commission's policy in determining its 2019 ROE, the report concluded that Bridger used methods that ''captured the spirit'' of the Commission's policy. Audit of Bridger Pipeline LLC, Docket No. FA19–10–000, at 71 (issued Sept. 23, 2021). In any case, Joint Commenters themselves incorporate Bridger's reported 2019 ROE in calculating their proposed index level. *See* Brattle Initial Report, Workpaper 1, ''WP Table 2'' tab at cell Z211 (reflecting total cost of service reported in Bridger's 2019 Form No. 6, which incorporates the ROE addressed in the audit report). Finally, we recognize that Mustang filed a revised 2019 ROE in 2021 that reflects the ROE Policy Statement. Although LEPA initially applied its adjustments to Mustang's revised ROE, LEPA filed supplemental comments on January 28, 2026, to correct this error. In either case, the treatment of Mustang has no effect on the index level.

[106] Joint Commenters Reply Comments at 21–22 (citing Brattle Reply Report at P 84 & n.44).

[107] Specifically, the Commission revised its application of the CAPM analysis by (a) adopting Bloomberg-based betas instead of Value Line betas and (b) using short-term growth estimates published by the Institutional Brokers' Estimate System (IBES) and Value Line, rather than IBES estimates alone, in determining the CAPM risk premium. Opinion No. 586, 185 FERC ¶ 61,126 at PP 125–126.

[108] Moreover, CAPP has not demonstrated that its DCF analysis for 2024 complies with the Commission's policy. First, CAPP determines its 2024 DCF return using a proxy group of only three companies. CAPP Reply Comments, Attach. F at DCF (2024) tab. However, the Commission has declined to use three-member proxy groups and explained that proxy groups should contain ''at least four, and preferably at least five members, if representative members can be found.'' Opinion No. 586, 185 FERC ¶ 61,126 at P 91 & n.254 (citing ROE Policy Statement, 171 FERC ¶ 61,155 at P 59); *Kern River Gas Transmission Co.,* Opinion No. 486–B, 126 FERC ¶ 61,034, at P 104 (2009) (explaining that the Commission has found that proxy groups of ''three members were too small'' (citing *Williston Basin Interstate Pipeline Co.,* 104 FERC ¶ 61,036, at P 35 (2003))). Furthermore, there is no evidence that CAPP considered additional companies that could be included in the proxy group. Second, CAPP does not demonstrate that the three companies in its proxy group satisfy the Commission's criteria for proxy group membership. In developing its proposed CAPM ROE for 2019, LEPA used the five-member proxy group adopted in Opinion No. 586, which the Commission found was reasonable based on a study period from September 2019–February 2020. In addition, LEPA presents unrebutted testimony from its expert Dr. Webb that the members of the Opinion No. 586 proxy group continue to satisfy the Commission's proxy group criteria during LEPA's proposed study period from July 2019–December 2019. Webb LEPA Decl. at P 13. By contrast, although CAPP proposes to exclude two of the five Opinion No. 586 proxy group companies because they are no longer publicly traded, *see* Christensen Reply Report at 10 n.10, it does not address whether the remaining three companies continue to satisfy the Commission's proxy group criteria during its proposed July 2024–December 2024 study period.

[109] *See* ROE Policy Statement, 171 FERC ¶ 61,155 at PP 4–5, 8 (describing inputs to DCF model and CAPM analysis).

[110] Christensen Reply Report at 8–9.

of pipelines' ROE costs.[111] Furthermore, contrary to CAPP's claim, Dr. Webb's use of size-premium adjustments based on each proxy group member's size relative to the companies in the S&P 500 conforms to the Commission's policy.[112]

34. We also reject CAPP's claim that Dr. Webb's CAPM analysis may differ from the CAPM analyses that pipelines used in preparing their page 700 ROEs for 2024. As discussed above, Shippers have not demonstrated that Dr. Webb's CAPM analysis conflicts with the Commission's policy. Moreover, Form No. 6 instructs pipelines to determine their page 700 ROEs in accordance with the Commission's cost-of-service policies,[113] and CAPP does not allege that pipelines' page 700 ROEs for 2024 do not comply with this requirement.

35. In addition to the issues raised by the comments and consistent with the discussion above, we are no longer concerned about removing the effects of the ROE Policy Change discussed in the NOPR. Although the NOPR stated that the Commission has never adjusted the ROE in prior indexing proceedings,[114] the adjustment to account for the ROE Policy Change is consistent with the 2020 Index Review requiring removal of the effects of other policy changes.[115] Moreover, our analysis of the record also alleviates the concern expressed in the NOPR that the adjustment for the ROE Policy Change would be unduly complicated and inconsistent with indexing's purpose as a simplified and streamlined process.[116] As discussed above, the record has provided a workable means for making the appropriate adjustments to account for the ROE Policy Change.

36. Finally, we disagree with the dissent's arguments opposing the adjustments to account for the ROE Policy Change. The dissent recognizes that it is preferable to calculate the index level using cost data that reflects consistent policies. Although the dissent argues that the appropriate remedy for the data inconsistencies resulting from the ROE Policy Change was for pipelines to file updated 2019 cost data in 2020,[117] the dissent acknowledges that this remedy is unavailable because most pipelines did not make such filings (nor were they required to do so). Thus, the fact remains that the 2019 and 2024 cost data in the record reflect different ratemaking policies. The Commission need not leave the asymmetry unaddressed, as the dissent suggests, merely because pipelines did not file updated data in 2020. On balance, given the record before us, we find that the superior approach is to account for the ROE Policy Change through the adjustments to the 2019 cost data adopted herein. Recognizing that these adjustments, like any other approach, are not exact,[118] we nonetheless conclude that they will produce a more accurate measure of industry-wide cost changes from 2019–2024 than using unadjusted data reported under different policies. Moreover, we find that our determinations in this order sufficiently respond to the dissent's other contentions.[119]

B. Resubmitted Form No. 6s

1. NOPR Proposal

37. The Commission proposed in the NOPR to calculate the index level using pipelines' originally filed 2019 cost data, rather than the resubmitted 2019 cost data that 61 pipelines filed in April-June 2025. The Commission observed that the resubmitted data was filed five years after the 2019 cost data was originally due for submission and that a similarly significant volume of late Form No. 6 resubmissions had not arisen in any prior five-year index review. The Commission stated that while many of the changes involved revisions to ROE and capital structure, some pipelines made additional changes to other cost components unrelated to ROE, such as rate base and operating expenses.[120] In addition, the Commission stated that pipelines included limited explanation or supporting calculations for the proposed changes to their original data. Furthermore, the Commission expressed concern that using the resubmitted 2019 cost data could introduce biases to the index level calculation because only some pipelines filed resubmitted data. The Commission requested comment on whether, and if so, how, the index calculation should incorporate the resubmitted 2019 cost data.[121]

2. Comments

38. LEPA contends that the Commission should use resubmitted 2019 cost data that pipelines filed in 2025 in calculating the index. LEPA argues that Dr. Webb's testimony addresses the Commission's concern that the resubmitted data lacks support by providing calculations supporting the revised 2019 ROEs included in the resubmittals.[122] In response to the Commission's concern that using the revised data could bias the index level calculation because only some pipelines updated their data,[123] LEPA states that its proposed adjustments resolve this concern by adjusting the 2019 cost data for all pipelines in the data set, including those that did not resubmit their Form No. 6.[124]

39. Shippers argue that the Commission should use pipelines' originally filed 2019 cost data and decline to consider the recently resubmitted data. Shippers contend that the resubmitted Form No. 6s are

[111] For example, LEPA presents CAPM and DCF analyses of the Opinion No. 586 proxy group for both 2014 and 2019. In both years, the CAPM analysis produced lower returns than the DCF analysis. LEPA Reply Comments, Decl. of Dr. Michael J. Webb at PP 7–8 (determining CAPM returns of 9.47% for 2014 and 9.17% for 2019, compared to DCF returns of 13.62% for 2014 and 10.12% for 2019).

[112] *See* Opinion No. 586, 185 FERC ¶ 61,126 at P 129 (adopting a CAPM analysis incorporating Duff & Phelps size premium adjustments, which adjust the proxy group members' cost-of-equity estimates based on their size relative to the S&P 500); Ex. MJW–L2 at ''Size Adjustment'' tab (applying Duff & Phelps size premiums approved in Opinion No. 586).

[113] *See* FERC Form No. 6, page 700 at Instruction (2) (''The values [on page 700] shall be computed consistent with the Commission's Opinion No. 154–B et al. methodology.'').

[114] NOPR, 193 FERC ¶ 61,145 at P 13.

[115] 2020 Index Review, 173 FERC ¶ 61,245 at PP 16–20 (adjusting the reported page 700 data for 2014 to account for the Income Tax Policy Change). This is also the first time the Commission's ROE policy for oil pipelines changed since the Commission began using the page 700 to calculate the index level in the 2015 Index Review. 2015 Index Review, 153 FERC ¶ 61,312 at PP 12–18. Prior to 2015, the Commission calculated the index level using accounting data on Form No. 6 that does not directly incorporate an ROE.

[116] NOPR, 193 FERC ¶ 61,145 at P 13.

[117] As discussed above, following the ROE Policy Change in 2020, the Commission further refined its ROE methodology in 2023 in Opinion No. 586. Thus, even if pipelines had filed revised 2019 cost data in 2020 to reflect the ROE Policy Change, that revised 2019 data would not reflect the same ROE policy as 2024 cost data filed after Opinion No. 586. *Supra* P 33.

[118] For instance, we acknowledge that LEPA's single CAPM result may not precisely measure the cost of equity of each pipeline in the data set. *Supra* P 31. Moreover, we recognize that by adopting these adjustments, we are comparing 2024 data that incorporates individually reported CAPM returns with 2019 data that incorporates a single, industry-wide CAPM return. However, as discussed above, we find that it is preferable, on balance, to address the data asymmetry resulting from the ROE Policy Change by making these adjustments, notwithstanding that this approach (as would any other) entails some imprecision.

[119] *Supra* PP 31–32 (responding to argument that the adjustments improperly use a single CAPM result for all pipelines in the data sample); *supra* PP 28, 31 (responding to argument that the adjustments conflict with the Commission's determinations in the 2020 Index Review); *supra* P 26 (responding to argument that the adjustments create a ''stitching problem'' resulting from inconsistencies with the 2019 cost data used in the 2020 Index Review).

[120] *Id.* P 15 n.33.

[121] *Id.* P 16.

[122] LEPA Initial Comments at 19 (citing Webb Decl. at P 18; Ex. MJW–L2).

[123] NOPR, 193 FERC ¶ 61,145 at P 16.

[124] LEPA Initial Comments at 19–20 (citing Shehadeh Decl. at App. A).

untimely and contain limited support for the changes to the originally reported page 700 cost data, including changes to cost-of-service items unrelated to ROE.[125] To the extent that pipelines revised their original data to reflect the Commission's determinations in Opinion No. 586, Shippers argue that reflecting this 2023 decision in page 700 data for 2019 would contravene the requirement for pipelines to complete page 700 in accordance with the Opinion No. 154–B methodology effective at the time of filing.[126] Moreover, because all pipelines that resubmitted their 2019 data reported the 9.21% revised ROE prepared by Dr. Webb, Shippers contend that the resubmissions reflect a coordinated effort to skew the index upward by altering the page 700 data set.[127] Shippers state that incorporating the resubmitted data in the index level calculation would undermine the reliability of Form No. 6 data and encourage similar untimely resubmissions in the future.[128]

3. Commission Determination

40. Consistent with the proposal in the NOPR, we decline to incorporate into the index level calculation the 2019 cost data that 61 pipelines resubmitted between April and June 2025 and will rely on pipelines' originally submitted 2019 cost data.[129] As explained in the NOPR, the resubmissions were filed five years after the cost data was originally due to be submitted.[130] A similarly significant volume of late filings of cost data has not arisen in prior five-year review proceedings.[131]

41. Moreover, as the Commission stated in the NOPR, the resubmitted 2019 cost data lack supporting calculations or explanations for the late filings.[132] The record created by the comments does not resolve this concern. Although LEPA argues that the record includes an explanation for the ROE calculations in the resubmitted 2019 cost data, the resubmitted 2019 cost data include several other departures from the originally filed data.[133] These additional departures[134] remain unexplained.[135]

42. Finally, although using the resubmitted 2019 cost data in calculating the index level would help to reflect the ROE Policy Change, we find that the ROE Policy Change is sufficiently and more effectively addressed by the adjustment to the originally filed 2019 cost data discussed in section III.A of this order. Specifically, because only 61 pipelines resubmitted new 2019 cost data, using the ROEs in the resubmitted filings and making the adjustment discussed in section III.A to the ROEs for the remaining pipelines could lead to inconsistent treatment of the ROEs across the whole data set. Accordingly, as proposed in the NOPR, we are not including the late submitted 2019 cost data in the calculation of the index level.[136]

C. Data Trimming

1. NOPR Proposal

43. The Commission proposed in the NOPR to calculate the index level by trimming the data set to the middle 80%, consistent with its practice in the 2020 Index Review.[137] The Commission stated that considering a larger data sample should enhance the calculation of the central tendency of industry cost experience. Here, the Commission observed that the middle 80% provides a more robust sample of industry cost experience compared to the middle 50%.[138] In addition, the Commission preliminarily found that using the more inclusive data sample in the middle 80% would aid the Commission in identifying the central tendency of industry-wide cost changes that reflects the ''normal'' cost changes recoverable by the index.[139] The Commission encouraged commenters to address whether it should continue to trim the data set to the middle 80% or adopt an alternative approach to data trimming.[140]

2. Comments

44. LEPA states that the Commission should calculate the index level by trimming the data set to the middle 80%,[141] consistent with the 2020 Index Review.[142] Although the Commission relied solely on the middle 50% in the 2015 and 2010 Index Reviews, LEPA contends that the Commission's approach in those proceedings does not require using the middle 50% here.[143] LEPA argues that absent concerns about

[125] Liquids Shippers Initial Comments at 14–17; EPR Shippers Initial Comments at 15; STUSCO Initial Comments at 11–12; STUSCO Reply Comments at 9.

[126] Joint Commenters Initial Comments at 49–50 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 48; Brattle Initial Report at P 166); Liquids Shippers Initial Comments at 15 (citing Aff. of Elizabeth H. Crowe at 10–11 (Crowe Initial Aff.)).

[127] Joint Commenters Initial Comments at 49 (citing Brattle Initial Report at P 164); Liquids Shippers Initial Comments at 15–16 (citing Crowe Initial Aff. 9 & n.11).

[128] EPR Shippers Initial Comments at 16; STUSCO Initial Comments at 11–12.

[129] *See* NOPR, 193 FERC ¶ 61,245 at P 16.

[130] *Id.*

[131] *Id.*

[132] The filings themselves merely state that ''[t]he cost of service results have been updated to reflect the most current interpretation of the FERC methodology outlined in Opinion No. 154–B, 31 FERC ¶ 61,377, as modified and clarified by subsequent rulings.'' *See, e.g.,* Buckeye Pipe Line Transportation LLC, Revised 2020 FERC Form No. 6 Report, at page 2 (filed June 16, 2025). Other pipelines added that ''2019 and 2020 data has been restated using a revised [ROE] calculation consistent with the ROE methodology approved by the Commission in Opinion No. 586.'' Express Pipeline, LLC, Revised 2020 FERC Form No. 6 Report, at page 700 (filed May 2, 2025). However, these pipelines did not explain how or why the holdings in Opinion No. 586 prompted the modifications to the pipelines' 2019 cost data.

[133] NOPR, 193 FERC ¶ 61,245 at P 15 n.33.

[134] Including the resubmitted Form No. 6 filings would change the index level from PPI–FG—0.55%, as adopted in this order, to PPI–FG—0.22%. The substantial majority of this differential (22 out of 33 basis points) results from the unexplained modifications as opposed to the revised ROEs. Attach. A at Ex. 12 tab.

[135] Page 700 instructs pipelines making ''major changes to [their] application of the Opinion No. 154–B et al. methodology'' to ''describe such changes in a footnote.'' Form No. 6, page 700 at Instruction (6); *see also id.,* General Instruction IX (''Whenever . . . pages [of Form No. 6] refer to figures from a previous period the figures reported must be based upon those shown by the report of the previous period or an appropriate explanation given as to why different figures were used.''). Here, although the resubmissions state generally that the pipelines were updating their previously reported 2019 cost data to reflect the current interpretation of the Opinion No. 154–B methodology, they did not describe or explain the changes to cost data unrelated to ROE.

[136] The ROE Policy Statement issued May 21, 2020, one month after pipelines filed their 2019 page 700s in April 2020. Accordingly, in the ROE Policy Statement, the Commission encouraged pipelines to file updated 2019 cost data that reflected the ROE Policy Change by July 21, 2020. ROE Policy Statement, 171 FERC ¶ 61,155 at P 92; *see also* Notice Establishing Date for Filing Updated Data, Docket No. PL19–4–000 (issued July 7, 2020). However, the Commission did not commit to use this updated data in any future index review. *See id.* (stating that ''reflecting the revised [ROE] methodology in page 700 data for 2019 may help the Commission better estimate industry-wide cost changes for purposes of the five-year review'' but that ''the Commission will address this issue further in the five-year review''). Only two pipelines filed updated 2019 cost data in July 2020, only three months after 2019 cost data was due. Here, by contrast, the resubmitted 2019 cost data filed in 2025 were submitted five years after the data was originally due. Moreover, unlike the resubmissions contemplated by the ROE Policy Statement, the 61 resubmissions filed in 2025 include significant, unexplained changes to page 700 cost-of-service items unrelated to ROE.

[137] NOPR, 193 FERC ¶ 61,245 at P 8.

[138] *Id.* P 9.

[139] *Id.* P 10.

[140] *Id.* P 11.

[141] LEPA Initial Comments at 20–22. Kinder Morgan and EIC support LEPA's proposal to use the middle 80%. Kinder Morgan Initial Comments at 1, 3; EIC Initial Comments at 5, 20.

[142] LEPA Initial Comments at 21 (citing 2020 Index Review, 173 FERC ¶ 61,245 at PP 28, 63). LEPA also observes that the Commission considered the middle 80% in the 2005 and 2000 Index Reviews, where it determined the index level using an average of the middle 80% and middle 50%. LEPA Reply Comments at 11 (citing 2005 Index Review, 114 FERC ¶ 61,293 at PP 4, 33; 2000 Remand Order, 102 FERC ¶ 61,194 at PP 24–25, 28).

[143] LEPA Reply Comments at 11.

introducing erroneous or outlying data, a larger data sample provides a superior basis for evaluating normal cost changes and that excluding the additional data in the middle 80% would bias the index downwards.[144] Pipelines further state that considerations that the Commission has previously found support trimming to the middle 50% should not control here. Pipelines argue that although the Commission found in Order No. 561 that data reporting errors supported restricting its analysis to the middle 50%, subsequent improvements in reporting accuracy have resolved this concern.[145] Moreover, according to Pipelines, the fact that the middle 80% is more widely dispersed than the middle 50% does not establish that the middle 80% contains outlying or anomalous data.[146]

45. Although Designated Carriers do not oppose LEPA's proposal to use the middle 80%,[147] they recommend that the Commission trim the data set using the Ferguson Kurtosis test (Ferguson Test) [148] as applied by their witness Dr. Webb.[149] Designated Carriers state that to obtain an accurate measure of industry cost experience, the Commission should use the broadest possible sample of cost data that excludes statistical outliers.[150] Designated Carriers state that trimming to the middle 80% removes all cost changes in the top and bottom 10% of the data set without examining whether those observations represent statistical outliers. By contrast, Designated Carriers contend that the Ferguson Test provides a superior approach because it only omits observations that represent true statistical outliers and retains all remaining data.[151] Here, Designated Carriers state that the Ferguson Test indicates that only 14 pipelines in the full data set constitute potential outliers.[152] Because trimming to the middle 80% would exclude 40 pipelines from the cost-change analysis, Designated Carriers state that this approach could bias the index calculation by removing relevant data.[153]

46. Shippers oppose Pipelines' proposals and urge the Commission to trim the data set to the middle 50% consistent with its practice in Order No. 561 and in the 2010 and 2015 Index Reviews.[154] Shippers state that the Commission has previously found that using the middle 50% provides a simple and transparent method of excluding anomalous data while minimizing the need to analyze individual pipeline data.[155] Shippers argue that the middle 80% here contains anomalous and extraordinary costs that would skew the index upwards and frustrate the index's goal of measuring normal cost changes.[156] For instance, Shippers argue that pipelines in the incremental 30% (*i.e.,* pipelines that are included in the middle 80% but not the middle 50%) reported cost changes resulting from major transactions, operational incidents, accounting changes, partial-year operating data, and other factors unrepresentative of typical experience.[157] CAPP contends that pipelines in the incremental 30% experienced weaker correlations between changes in total costs and barrel-miles than pipelines in the middle 50%, indicating that the middle 80% includes anomalous and unrepresentative cost changes.[158] Shippers also state that the middle 80% is more dispersed than the middle 50% in this proceeding and the middle 80% in prior reviews, indicating that it contains extraordinary cost changes.[159] Shippers further argue that it is unnecessary to use the middle 80% to obtain a representative sample of industry experience because the middle 50% contains a greater percentage of barrel-miles subject to the index (82%) than in the 2015 (56%) or 2010 Index Reviews (76%).[160] Joint Commenters contend that the Commission should only use the middle 80% if it performs a detailed review to verify that it excludes anomalous costs.[161]

47. Shippers contend that LEPA's arguments do not justify using the middle 80%. Shippers state that LEPA's reliance on the 2020 Index Review is

[144] *Id.* at 10, 13–14 (citing *id.,* Reply Declaration of Ramsey D. Shehadeh, Ph.D., at 12–13 (Shehadeh Reply Decl.)); *see also* Designated Carriers Initial Comments at 19 (citing *id.,* Aff. of Dr. Michael J. Webb ¶ 8 (Webb Initial Aff.)); Designated Carriers Reply Comments at 15.

[145] LEPA Reply Comments at 13 (citing 2005 Index Review, 114 FERC ¶ 61,293 at P 48 & n.20; Shehadeh Reply Decl. at 12); Designated Carriers Initial Comments at 18, 29 (citing Webb Initial Aff. ¶ 7).

[146] LEPA Reply Comments at 15 (citing Shehadeh Reply Decl. at 6); Designated Carriers Reply Comments at 14–15.

[147] *See* Designated Carriers Reply Comments at 9 (stating that trimming to the middle 80% is the ''most restrictive approach the Commission should potentially adopt''); *see also* Designated Carriers Initial Comments at 19 (citing Webb Initial Aff. ¶ 10); Designated Carriers Reply Comments, Reply Aff. of Dr. Michael J. Webb at P 30 (Webb Reply Aff.).

[148] The Ferguson Test begins with the full data set and evaluates whether the data point furthest removed from the median conforms to a normal distribution. If the value does not conform to a normal distribution, the Ferguson Test classifies the value as a statistical outlier and removes it from the data set. This process repeats until the data point furthest from the median adheres to a normal distribution. *See* Webb Initial Aff. ¶ 30. In performing this analysis here, Dr. Webb (a) transforms the full data set to a normal distribution by taking the natural logarithm of each cost-change observation and (b) applies the Ferguson Test to the log-transformed data set. *Id.* PP 27–28.

[149] Designated Carriers Initial Comments at 7, 17–29; Designated Carriers Reply Comments at 9–10; Webb Initial Aff. ¶¶ 29–34; Ex. MJW–D16 at 1–27.

[150] Designated Carriers Initial Comments at 19–20.

[151] *Id.* at 19–20, 24–25.

[152] Ex. MJW–D16 at 19–24 (showing that the Ferguson Test identifies 14 pipelines as statistical outliers using the revised data set that incorporates LEPA's adjustments to account for ROE Policy Change and other proposed changes); *see also* Designated Carriers Initial Comments at 26–27; Webb Initial Aff. at PP 34–35. Dr. Webb attests that a separate statistical outlier test, the D'Agostino K-Squared test, produces similar results. Webb Initial Aff. ¶¶ 31–32, 34–35.

[153] Designated Carriers Initial Comments at 19, 26 (citing Webb Initial Aff. ¶ 8).

[154] Joint Commenters Initial Comments at 23–24; Liquids Shippers Initial Comments at 8–9 (citing 2015 Index Review, 153 FERC ¶ 61,312 at PP 43, 60; 2010 Index Review, 133 FERC ¶ 61,228 at P 61; Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097); EPR Shippers Initial Comments at 2–3, 6–7 (citing 2015 Index Review, 153 FERC ¶ 61,312 at P 42; 2010 Index Review, 133 FERC ¶ 61,228 at PP 54, 61; Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097). Shippers state that although the Commission used the middle 80% in the 2020 Index Review, it later cast doubt upon its reasoning for that decision. *E.g.,* EPR Shippers Initial Comments at 4–5, 9 (citing Supplemental NOPR, 189 FERC ¶ 61,030 at PP 13–23; January 2022 Rehearing Order, 178 FERC ¶ 61,023 at P 43); STUSCO Initial Comments at 7 (citing Supplemental NOPR, 189 FERC ¶ 61,030 at PP 13–23; January 2022 Rehearing Order, 178 FERC ¶ 61,023 at PP 37, 43–58).

[155] Joint Commenters Initial Comments at 24–25 (citing 2015 Index Review, 153 FERC ¶ 61,312 at PP 22–30, 36, 42–44 & nn. 80, 83); Liquids Shippers Initial Comments at 8 (citing 2010 Index Review, 133 FERC ¶ 61,228 at P 61); EPR Shippers Initial Comments at 3, 6 (citing 2015 Index Review, 153 FERC ¶ 61,312 at P 44; 2010 Index Review, 133 FERC ¶ 61,228 at P 61).

[156] *E.g.,* Joint Commenters Initial Comments at 28–29, 36; EPR Shippers Initial Comments at 8–9; CAPP Initial Comments at 3–4; STUSCO Reply Comments at 5–6. Shippers contend that anomalous data in the middle 80% exerts a significant influence upon the sample's central tendency and thus would skew the index calculation. Joint Commenters Initial Comments at 31–33 (citing Brattle Initial Report at PP 113, 117–118 & fig. 24); Liquids Shippers Initial Comments at 10–11 (citing Crowe Initial Aff. 5–6); STUSCO Initial Comments at 5–6.

[157] Joint Commenters Initial Comments at 36–39 (citing Brattle Initial Report at PP 62, 65–66, 69–76, 80–84 & Figures 5–9, 11–12); Brattle Initial Report at P 101 & Figure 17; Liquids Shipper Initial Comments at 10; Crowe Initial Aff. 3–5.

[158] CAPP Initial Comments, Christensen Initial Report at 18–19.

[159] Joint Commenters Initial Comments at 34 (citing Brattle Initial Report at P 91 & fig. 15); Liquids Shippers Initial Comments at 11 (citing Crowe Initial Aff. 6); EPR Shippers Initial Comments at 10–11; STUSCO Reply Comments at 5.

[160] Joint Commenters Initial Comments at 28–29 (citing *AOPL III,* 876 F.3d at 342–44; 2015 Index Review, 153 FERC ¶ 61,312 at P 55 n.85; 2010 Index Review, 133 FERC ¶ 61,228 at P 63; Brattle Initial Report at P 125 & fig. 25); Liquids Shippers Initial Comments at 11–12 (citing Crowe Initial Aff. 7); EPR Shippers Initial Comments at 9; STUSCO Initial Comments at 5.

[161] Joint Commenters Initial Comments at 27.

misplaced because the Commission subsequently disavowed its reasoning for using the middle 80% in that proceeding.[162] Thus, Joint Commenters contend that the Commission's established practice is to use the middle 50%.[163] Furthermore, Shippers argue that the mere fact that the middle 80% includes additional data does not support introducing the extraordinary cost changes in the incremental 30%.[164] Shippers state that Pipelines have not performed a detailed review of the incremental 30% to confirm that it does not include anomalous data.[165]

48. Finally, Shippers oppose Designated Carriers' proposal to trim the data set using the Ferguson Test. Shippers contend that this proposal departs from the Commission's longstanding use of statistical data trimming under the Kahn Methodology.[166] Moreover, Shippers state that the Ferguson Test only identifies statistical outliers in the tails of the distribution and does not assess whether cost changes are unrepresentative of normal experience because they resulted from idiosyncratic circumstances or data-reporting errors.[167]

3. Commission Determination

49. We adopt the NOPR's proposal to calculate the index level by trimming the data set to the middle 80%. In the NOPR, the Commission invited commenters to address whether the Commission should trim the data set to the middle 80% or adopt an alternative approach to data trimming.[168] Based on our review of the resulting record, we conclude that using the middle 80% is appropriate for this proceeding.

50. First, we continue to find that it is appropriate to consider more data in measuring industry-wide cost changes rather than less. The Kahn Methodology determines the index level by deriving the central tendency of a statistically trimmed data sample.[169] As the Commission explained in the 2020 Index Review, considering a larger data sample should enhance the calculation of the central tendency of industry cost experience.[170] In this proceeding, using the middle 80% incorporates the cost experiences of 155 pipelines out of 195 pipelines in the full data set, representing 94% of industry-wide barrel-miles.[171] Thus, the middle 80% provides a highly robust sample of industry cost trends during the 2019–2024 period. In contrast, confining our analysis to the middle 50% would exclude 58 additional pipelines (for a total of 98 pipelines excluded) and remove 10% of industry barrel-miles, providing a more limited representation of industry experience.[172]

51. Second, we conclude that for purposes of this index review, ''normal'' cost changes are best defined by incorporating the inclusive sample in the middle 80%.[173] As the Commission found in the 2020 Index Review, prematurely discarding data before determining the central tendency could skew the index such that it does not reflect industry-wide cost trends.[174] Using the more inclusive sample embodied by the middle 80% allows the Commission to accurately identify the central tendency of industry-wide cost changes that represents the ''normal'' cost changes recoverable through the index.[175]

52. Third, the middle 80% of this data set achieves a reasonable balance that incorporates a wide spectrum of industry experience while removing data that could distort the index calculation. As illustrated below, a scatter plot of the full data set indicates that the middle 80% sample (shown in orange) excludes cost changes in the left and right tails of the distribution (shown in blue) that diverge more significantly from the remainder of the dataset and could have a distorting effect on the mean and weighted mean, which comprise two-thirds of the composite measure of central tendency.

[162] *Id.* at 24–25; Joint Commenters Reply Comments at 6 (citing Supplemental NOPR, 189 FERC ¶ 61,030 at P 20).

[163] *Id.*

[164] STUSCO Initial Comments at 6; Joint Commenters Reply Comments at 6–7; STUSCO Reply Comments at 5.

[165] Joint Commenters Reply Comments at 5–9.

[166] Liquids Shippers Reply Comments at 13–14; STUSCO Reply Comments at 6–7.

[167] Joint Commenters Reply Comments at 8, 13–14 (citing Brattle Reply Report at P 60); STUSCO Reply Comments at 7.

[168] NOPR, 193 FERC ¶ 61,145 at P 11.

[169] 2020 Index Review, 173 FERC ¶ 61,245 at P 26.

[170] *Id.*

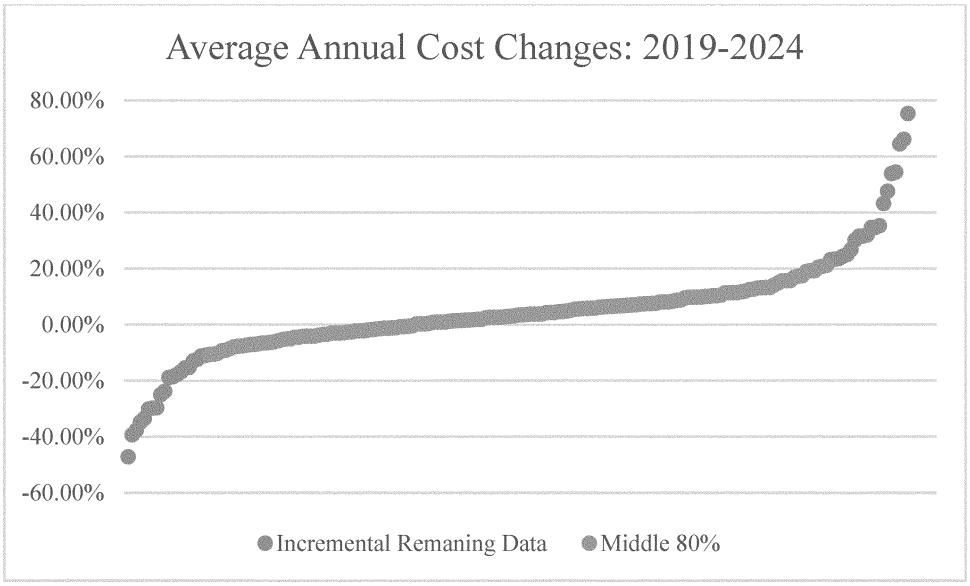
[171] *See* Attach. A at Ex. 3 tab.

[172] LEPA argues that the Commission should use the middle 80% because it conforms more closely to a lognormal distribution than the middle 50%. LEPA Initial Comments at 21–22 (citing Shehadeh Initial Decl. at 23–26); LEPA Reply Comments at 9–10, 15 (citing Shehadeh Reply Decl. at 6–7, 9–10, 21–22 & Exs. A17–A19). Shippers argue that conformity with a lognormal distribution does not establish that a sample excludes anomalous data. *E.g.,* Joint Commenters Reply Comments at 10–12; EPR Shippers Reply Comments at 3; STUSCO Reply Comments at 6. Given the objections in the record, we do not rely on this argument in deciding to use the middle 80% here. *See* 2020 Index Review, 173 FERC ¶ 61,245 at P 22 n.65 (declining to rely on this argument); 2015 Index Review, 153 FERC ¶ 61,312 at P 43 (same).

[173] 2020 Index Review, 173 FERC ¶ 61,245 at P 27.

[174] *Id.*

[175] *Id.*



53. We are not persuaded by Shippers' objections to using the middle 80%. Contrary to Shippers' claims,[176] using the middle 80% for this data set will not produce an index level that allows pipelines to recover extraordinary costs.[177] To the extent that the middle 80% includes relatively high cost changes near its upper bound, the index is set using the composite central tendency of the trimmed sample and thus will be significantly below the upper bound.[178]

54. Furthermore, Shippers' analyses of individual pipelines in the middle 80% do not persuade us to limit our analysis of industry cost experience to the middle 50%. Shippers contend that the middle 80% includes several individual pipelines reporting cost changes that result from idiosyncratic factors, including significant shifts in rate base or barrel miles.[179] However, as the Commission explained in the 2020 Index Review, the mere presence of pipelines with anomalous cost changes in a data sample is not sufficient reason to use an alternative sample.[180] We further conclude that Joint Commenters' analysis overstates the degree to which cost changes in the incremental 30% resulted from factors that they consider ''anomalous.'' For instance, Joint Commenters argue that cost changes are anomalous where the pipeline reported ''significant'' changes in rate base due to factors such as expansions or retirements, acquisitions or divestitures, inconsistent accounting or reporting practices, or other operational changes or irregularities.[181] However, for several of these pipelines, Dr. Webb explains that the change in rate base was largely attributable to normal depreciation,[182] which Joint Commenters acknowledge is not an ''anomalous'' event warranting exclusion from the data set.[183]

55. As a general matter, we disagree with Shippers' claims that the Commission should exclude pipelines from the data set merely because they experienced significant shifts in rate base or throughput during the review period. The industry-wide index level should reflect the diversity of industry cost experience. Changes in barrel-mile costs resulting from business circumstances such as rate base investments or volume shifts contribute to the industry-wide cost trends that the index seeks to capture.[184] We recognize that the Commission used the middle 50% in the 2015 and 2010 Index Reviews because it found that the middle 80% was more likely to include cost changes resulting from pipeline-specific factors.[185] However, the Commission reconsidered those decisions in the 2020 Index Review,[186] and we conclude based on this record that using a larger sample capturing a wider array of industry cost experience will produce a central tendency that better represents ''normal'' cost changes. Furthermore, where a pipeline experiences idiosyncratic cost changes that depart substantially from industry norms, that pipeline will not be

[176] *E.g.,* Joint Commenters Initial Comments at 26, 40–41 (citing *AOPL I,* 83 F.3d at 1434; Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097); EPR Shippers Initial Comments at 7–8 (citing Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097); STUSCO Reply Comments at 5 (same).

[177] 2020 Index Review, 173 FERC ¶ 61,245 at P 32. We observe, moreover, that the mean and weighted mean of the middle 80% represent the 55th and 53rd percentiles of the full data set. Furthermore, in a data set of 195 pipelines, the mean of the middle 80% is only 10 pipelines away from the median. This undermines Shippers' arguments that considering the additional data in the middle 80% will inflate the index level calculation.

[178] *Id.*

[179] Joint Commenters Initial Comments at 36–39; Brattle Initial Report, Attach. E at 1–10, 12–13; Liquids Shippers Initial Comments at 10–11; Crowe Initial Aff. 4–5 & Ex. 2.

[180] 2020 Index Review, 173 FERC ¶ 61,245 at P 28. In the 2015 and 2010 Index Reviews, the Commission recognized that the middle 50% likely includes pipelines with cost changes resulting from anomalous or pipeline-specific factors. 2015 Index Review, 153 FERC ¶ 61,312 at P 33 n.60 (observing that 26 of the 41 pipelines that commenters proposed to exclude for reporting ''non-comparable'' data were included in the middle 50%); 2010 Index Review, 133 FERC ¶ 61,228 at P 48 n.25 (observing that 7 of the 25 pipelines that a commenter proposed to exclude for experiencing rate base expansions were included in the middle 50%). Just as the presence of those pipelines did not preclude use of the middle 50% in earlier reviews, we conclude that the pipelines Shippers identify do not preclude use of the middle 80% in this proceeding.

[181] Joint Commenters Initial Comments at 36–39; Brattle Initial Report, Attach. E at 1–10, 12–13; *see also* Liquids Shippers Initial Comments at 10; Crowe Initial Aff. at 4–5.

[182] Webb Reply Aff. ¶¶ 14–19.

[183] Brattle Initial Report, Attach. E at 13 (stating that although Heartland Pipeline Company's rate base declined by over 50% between 2019–2024, this change was not anomalous because it ''appears due to normal depreciation of rate base'').

[184] *See* 2010 Index Review, 133 FERC ¶ 61,228 at P 51 (explaining that ''large rate base changes can reflect changing pipeline costs'' and that ''[t]he cost of new investment associated with rate base increases reflects industry cost experience related to pipeline infrastructure on a barrel-mile basis''); *see also* Webb Reply Aff. ¶ 33 (attesting that pipeline expansions, retirements, acquisitions, and divestitures constitute ''a regular part of the industry landscape for pipeline companies'').

[185] 2015 Index Review, 153 FERC ¶ 61,312 at P 44; 2010 Index Review, 133 FERC ¶ 61,228 at P 61.

[186] 2020 Index Review, 173 FERC ¶ 61,245 at P 30.

included within the middle 80% used to calculate the index.[187]

56. Moreover, Shippers' own evidence indicates that a significant number of the cost changes that they describe as anomalous are included in the middle 50% and are not restricted to the middle 80%.[188] Even if a higher number of Shippers' identified pipelines fall within the incremental 30%,[189] we are not persuaded to restrict our analysis to the middle 50% solely on that basis when that narrower sample includes pipelines with cost changes resulting from similar factors as those that affected the identified pipelines falling within the incremental 30%.

57. Shippers' remaining arguments for using the middle 50% are unpersuasive. Contrary to Shippers' claim that the Commission's established practice is to use the middle 50% to calculate the index level, the Commission trimmed the data set to the middle 80% in the 2020 Index Review,[190] and we find that the record supports adhering to that approach here. Moreover, while we recognize that the middle 50% includes a greater percentage of industry barrel-miles than in 2015 or 2010,[191] we find that using a broader sample that more fully reflects the diversity of industry cost experience will provide a better measure of normal cost changes in this proceeding.[192]

58. We are similarly unconvinced by Shippers' claims that the Commission should exclude the additional data in the middle 80% merely because it is more widely dispersed than the middle 50% in this proceeding or the middle 80% in the 2015 or 2010 Index Reviews.[193] Because the middle 80% includes cost changes further removed from the median, it is unsurprising that the middle 80% is more widely dispersed than the middle 50%.[194] Rather than justifying the exclusion of this additional data, the higher dispersion of the middle 80% here reflects that it captures a broader array of industry cost experience than the middle 50%. As discussed above, we find that using this more comprehensive sample will enhance the calculation of the central tendency of industry-wide cost changes. Additionally, we observe that the middle 80% of this data set is more narrowly dispersed than the data set in the 2020 Index Review where the Commission relied on the middle 80%.[195]

59. In addition, we are unpersuaded by Joint Commenters' reliance on the 2015 Index Review in arguing that the Commission must perform a manual, pipeline-by-pipeline examination of the incremental 30% to verify that it excludes anomalous cost changes.[196] As explained in the 2020 Index Review,[197] we have reconsidered the Commission's findings in the 2015 Index Review and now find based on the record here that the benefits of considering the additional data in the middle 80% outweigh concerns about introducing anomalous data. Accordingly, we find that it is unnecessary to undertake a manual examination of the incremental 30%.[198] Similarly, we find it unnecessary to perform a manual, pipeline-by-pipeline examination of the pipelines in the first and tenth deciles, which are excluded by our decision to trim the data set to the middle 80%.

60. We disagree with CAPP's argument that the middle 80% includes anomalous data because pipelines in the incremental 30% exhibited weak or negative correlations between changes in total costs and barrel-miles.[199] As an initial matter, CAPP does not provide workpapers or calculations to support their analysis. In any event, as discussed above, the index calculation should reflect a broad array of industry cost experience. Thus, to the extent that the correlation between costs and barrel-miles differs for pipelines in the incremental 30% compared to those in the middle 50%, it is not unreasonable for the index to reflect these differences. Moreover, CAPP's evidence indicates that for most pipelines in the incremental 30%, changes in total costs were positively correlated with changes in barrel-miles.[200]

61. We acknowledge that the dissent raises concerns with trimming the data set to the middle 80% as opposed to the middle 50%. However, we find that the reasoning in this section adequately addresses the dissent's contentions.

62. Finally, we decline to adopt Designated Carriers' proposal to trim the data set using the Ferguson Test. As an initial matter, using the Ferguson Test would depart from the Commission's longstanding practice under the Kahn Methodology of calculating the index level using the central tendency of a statistically trimmed data sample by removing an equal number of pipelines from the top and bottom of the data set.[201]

63. In addition, we find that using the Ferguson Test would risk incorporating data that distorts the index calculation. The Ferguson Test as applied by Dr. Webb identifies outliers based upon whether they conform to the data set's lognormal distribution.[202] However, given the lognormal distribution of the data set, inclusion of all or nearly all of

[187] *See id.* P 47.

[188] Specifically, while Shippers claim that 55 pipelines in the data set reported anomalous cost changes, only 30 of those pipelines fall within the incremental 30%, and of the remaining 25 pipelines, 22 are included in the middle 50%. *Compare* Attach. A at Ex. 13 tab (listing pipelines in the incremental 30%), *with* Brattle Initial Report, Attach. E at 1–13 (listing pipelines that Joint Commenters claim reported anomalous cost changes), *and* Crowe Initial Aff. 4 (listing pipelines that Liquids Shippers claim reported anomalous cost changes). The remaining three pipelines fall outside the middle 80% in the top or bottom 10% of the data set.

[189] *See* Joint Commenters Initial Comments at 30–31 (citing Brattle Initial Report at P 86 & fig. 13).

[190] As discussed above, we reject Shippers' arguments that the 2020 Index Review is no longer valid precedent because the Commission expressed concerns with that order's reasoning in the now-vacated January 2022 Rehearing Order and the now-withdrawn Supplemental NOPR. *See supra* note 83.

[191] *E.g.,* Joint Commenters Initial Comments at 28–29 (citing Brattle Initial Report at P 125 & fig. 25); Liquids Shippers Initial Comments at 11–12 (citing Crowe Initial Aff. 7).

[192] 2020 Index Review, 173 FERC ¶ 61,245 at P 31.

[193] *E.g.,* Joint Commenters Initial Comments at 34; Liquids Shippers Initial Comments at 11; EPR Shippers Initial Comments at 10–11; STUSCO Reply Comments at 5.

[194] *See* Webb Reply Aff. ¶ 38.

[195] The dispersion of the middle 80% here is 33.80%, compared to 35.17% in the 2020 Index Review.

[196] Joint Commenters Initial Comments at 24–27 (citing 2015 Index Review, 153 FERC ¶ 61,312 at PP 22–30, 42–44 & nn. 80, 83).

[197] 2020 Index Review, 173 FERC ¶ 61,245 at P 30.

[198] The Commission has previously expressed concerns that manual data trimming requires subjective decisions and would introduce biases and complexity to the index level calculation. 2015 Index Review, 153 FERC ¶ 61,312 at PP 34–36; 2010 Index Review, 133 FERC ¶ 61,228 at PP 49–50. The record here does not dispel these concerns.

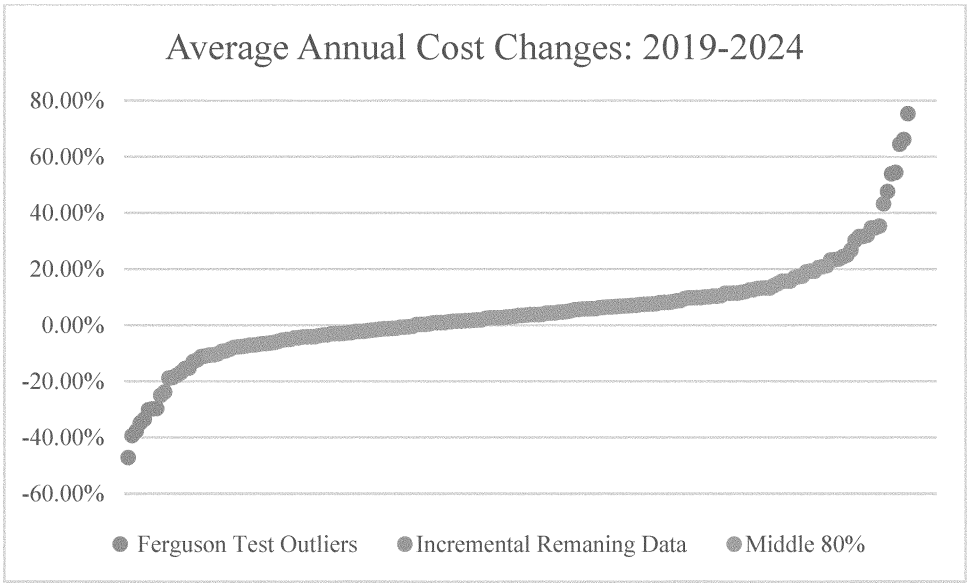
[199] CAPP Initial Comments, Christensen Initial Report at 18–19. A positive correlation indicates that the pipeline's total costs increased along with increases in barrel-miles, while a negative correlation indicates that total costs declined as barrel-miles increased. *Id.*

[200] *Id.* at 19, fig. 8. Only pipelines near the middle 80%'s upper bound exhibited negative correlations between total costs and barrel-miles. *Id.*

[201] 2020 Index Review, 173 FERC ¶ 61,245 at P 26. Thus, in Order No. 561 and in each successive index review, the Commission has determined the index level using the central tendency of the middle 50%, middle 80%, or an average of the middle 50% and middle 80%. 2020 Index Review, 173 FERC ¶ 61,245 at PP 25–32 (using middle 80%); 2015 Index Review, 153 FERC ¶ 61,312 at PP 42–44 (using middle 50%); 2010 Index Review, 133 FERC ¶ 61,228 at PP 60–63 (same); 2005 Index Review, 114 FERC ¶ 61,293 at P 28 (using average of middle 50% and middle 80%); 2000 Remand Order, 102 FERC ¶ 61,195 at P 24 (same); Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,096–97 (using middle 50%).

[202] As discussed above, to apply the Ferguson Test, Dr. Webb transforms the data set from a lognormal distribution to a normal distribution by taking the natural logarithm of each cost-change observation. The Ferguson Test then removes cost changes in the extreme tails until the remaining data conforms with the expected distribution. *See* Webb Initial Aff. ¶¶ 29–30.

the long right and left tails can distort the measure of central tendency by incorporating cost changes that diverge significantly from the cost changes in the rest of the data set.[203] The scatter plot below illustrates this concern in the present record.



As shown above, using the Ferguson Test here would incorporate cost changes outside the middle 80% in the left and right tails (shown in orange) that diverge significantly from the upper and lower bounds of the middle 80%.[204] Including these additional pipelines would have a pronounced effect on the index level calculation, increasing the composite central tendency by 87 basis points relative to the middle 80% (from 4.06% to 4.93%).[205]

64. By contrast, as discussed above, trimming to the middle 80% achieves a reasonable balance that provides a broad sample of industry cost experience while excluding data in the distribution's tails that could skew the index. Because the middle 80% of this data set provides a highly robust sample comprising approximately 94% of industry barrel-miles,[206] it is unnecessary to use the Ferguson Test to obtain an adequate representation of normal industry cost experience.

D. CAPP's Proposal To Calculate Central Tendency Using the Geometric Mean

1. Comments

65. CAPP states that if the Commission calculates the index level by trimming the data set to the middle 80%, it should determine the sample's central tendency using the geometric mean,[207] rather than the composite that averages the median, simple mean, and weighted mean. According to CAPP, when determining the central tendency of a positively skewed distribution, the geometric mean is superior to the simple mean, which will overstate the sample's central tendency.[208] CAPP states that formal statistical tests demonstrate that the middle 80% reflects a positively skewed lognormal distribution.[209] Thus, if the Commission uses the middle 80% instead of the middle 50%, CAPP recommends that the Commission determine central tendency using the geometric mean alone.[210]

66. LEPA opposes CAPP's proposal to replace the composite central tendency with the geometric mean. LEPA contends that using the geometric mean of a trimmed sample like the middle 80% will bias the index downwards by understating pipeline cost changes.[211] By contrast, LEPA argues that the Kahn Methodology provides a balanced representation of industry cost experience by using the composite central tendency that averages the median, which is identical for the full data set and the middle 80%, with the simple mean and weighted mean.[212] LEPA further states that the Commission declined to use the geometric mean to determine central tendency in a prior index review.[213]

2. Commission Determination

67. We decline to adopt CAPP's proposal to calculate the central tendency of the middle 80% using the

[203] In trimming to the middle 80% in the 2020 Index Review, the Commission expressly declined to rely on arguments that the middle 80% excluded anomalous or extraordinary costs merely because it conformed to a lognormal distribution. 2020 Index Review, 173 FERC ¶ 61,245 at P 28 n.65.

[204] As applied by Designated Carriers, the Ferguson Test would retain all cost changes between the 5th–97th percentiles of the full data set, thus trimming less data than in any prior index review. *See supra* note 191; *see also AOPL II,* 281 F.3d at 245–46 (remanding the Commission's decision in the 2000 Index Review to use the full data set without trimming); 2000 Remand Order, 102 FERC ¶ 61,195 at PP 24–25 (calculating the index level on remand using an average of the middle 50% and middle 80%).

[205] *See* Attach. A, Ex. 12 tab.

[206] Shehadeh Reply Decl. at 13; Shehadeh Reply Workpapers at Ex. B2 tab.

[207] The geometric mean is a type of average for positive numbers, calculated by multiplying *n* numbers together and taking the *n*th root.

[208] CAPP Initial Comments at 3; Christensen Initial Report at 16.

[209] Christensen Initial Report at 14–16.

[210] *Id.* at 14–15; CAPP Initial Comments at 4.

[211] LEPA Reply Comments at 18–19 (citing Shehadeh Reply Decl. at 22–23). Specifically, Dr. Shehadeh states that because the cost-change data set is positively skewed with a long right tail, removing the top 10% of the data set to derive the middle 80% has a greater effect than removing the bottom 10%, thereby reducing the geometric mean. As a result, Dr. Shehadeh states that relying solely on the geometric mean will bias the index downwards. *See* Shehadeh Reply Decl. at 22–23. By contrast, Dr. Shehadeh states that the Kahn Methodology mitigates this effect by incorporating the median, which is identical for the full data set and the middle 80%, in the composite central tendency. *Id.* at 23.

[212] LEPA Reply Comments at 17–18; Shehadeh Reply Decl. at 21, 23.

[213] LEPA Reply Comments at 18–19; Shehadeh Reply Decl. at 22 n.56 (citing 2005 Index Review, 114 FERC ¶ 61,293 at PP 4, 17).

geometric mean. Replacing the composite central tendency with the geometric mean would depart from longstanding Commission practice. The Kahn Methodology calculates the median, simple mean, and weighted mean of the data sample and averages the results to derive a composite measure of central tendency.[214] In the rulemaking proceeding that established the indexing regime, Dr. Kahn explained that the composite ''represents a pragmatic effort to provide a single reflection of the behavior of 'industry' costs for comparison with the changes in the PPI–FG.'' [215] The Commission credited Dr. Kahn's testimony and has used the composite central tendency in all subsequent five-year reviews,[216] including in reviews where it considered the middle 80%.[217] The Commission has also specifically declined to calculate central tendency using the geometric mean.[218]

68. CAPP has not convinced us to depart from this longstanding consistent practice. We are unpersuaded by CAPP's argument that using the composite central tendency of the middle 80% will bias the index level calculation because it incorporates the simple mean. As explained by Dr. Kahn, the simple mean, along with the median and weighted mean, ''captures a significant aspect of the composite results from an industry perspective.'' [219] Although the Commission has recognized that the simple mean is sensitive to outlying data observations in a skewed distribution,[220] the simple mean receives only one-third weighting in the composite central tendency. Averaging the simple mean with the median, which is the same for the full data set and the middle 80%, and the weighted mean mitigates distortions that could result from using the simple mean alone.

69. Moreover, there are some concerns about adopting the geometric mean as the sole measure of central tendency in calculating the index level. Dr. Shehadeh asserts that because the cost-change values are independent observations, the geometric mean is not an appropriate measure of central tendency for pipeline cost changes.[221] Of course, we recognize that CAPP argues that the geometric mean provides the central tendency for a lognormal data set.[222] However, whatever arguments and counterarguments may be made regarding the adoption of the geometric mean, the record on these issues is limited.

70. Furthermore, if we were to adopt CAPP's proposal to use the geometric mean as the sole measure of central tendency, we would also be abandoning the use of the weighted mean.[223] As the Commission has explained, the weighted mean makes an important contribution because particularly large pipelines, which move a disproportionate amount of barrels and involve a particularly large proportion of industry investment, provide especially important insight into pipeline cost changes.[224]

71. In sum, we are not convinced to change our calculation of central tendency to adopt the geometric mean. Rather, we find that it is just and reasonable to maintain our current approach of determining the central tendency based upon a composite of median, simple mean, and weighted mean.[225]

E. Pipeline Cost Changes Resulting From Regulatory Obligations and Other Developments

1. Comments

72. Pipelines state that they have experienced significant increases in costs related to electric power, labor and materials, and pipeline safety and integrity requirements, and claim that these costs will likely continue to increase in the future.[226] In support of this argument, Designated Carriers submit affidavits from pipeline representatives attesting that their companies experienced substantial cost increases during the 2019–2024 period.[227] In addition, LEPA submits a declaration from William R. Byrd describing new and continuing regulatory obligations related to pipeline safety and integrity that have affected pipelines' costs.[228] Mr. Byrd also identifies proposed legislation that could increase pipelines' obligations and compliance costs in the future.[229] Pipelines argue that their ability to invest in new and existing pipeline infrastructure depends on the Commission adopting an index level that accurately reflects rising industry costs.[230]

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[214] *E.g.,* 2020 Index Review, 173 FERC ¶ 61,245 at P 5; 2015 Index Review, 153 FERC ¶ 61,312 at P 5; *see also AOPL I,* 83 F.3d at 1433.

[215] Crysen Refining Inc., Lion Oil Company, and Sinclair Oil Corporation, Testimony of Dr. Alfred E. Kahn, Docket No. RM93–11–000, at 9 (filed Aug. 12, 1993) (Kahn Testimony).

[216] 2020 Index Review, 173 FERC ¶ 61,245 at P 5; 2015 Index Review, 153 FERC ¶ 61,312 at P 5; 2010 Index Review, 133 FERC ¶ 61,228 at P 8; 2005 Index Review, 114 FERC ¶ 61,293 at P 28; *see also* 2000 Remand Order, 102 FERC ¶ 61,195 at P 23.

[217] 2020 Index Review, 173 FERC ¶ 61,245 at P 63; 2005 Index Review, 114 FERC ¶ 61,293 at P 28; 2000 Remand Order, 102 FERC ¶ 61,195 at P 23.

[218] 2005 Index Review, 114 FERC ¶ 61,293 at PP 34–36.

[219] Kahn Testimony at 9.

[220] *See* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097.

[221] *See* Shehadeh Reply Decl. at 22 (explaining that CAPP inappropriately applies the geometric mean ''across pipelines'' to determine central tendency as opposed to using the geometric mean to measure ''the average change in costs across time'' (emphases omitted)).

[222] *See* Christensen Initial Report at 16 & n.20.

[223] We acknowledge that in a lognormal distribution, the median is the equivalent to the geometric mean. However, the composite used in the Kahn Methodology already incorporates the median. Moreover, the Commission's methodology for calculating the index level has long relied on two additional measures of central tendency (mean and weighted mean) in addition to the median to obtain a more comprehensive measure of the central tendency. Kahn Testimony at 9 (explaining that the median, simple mean, and weighted mean each ''captures a significant aspect of the composite results from an industry perspective'').

[224] *E.g.,* 2020 Index Review, 173 FERC ¶ 61,345 at P 37 (''[T]he Kahn Methodology strikes a balance between large and small pipelines by determining the central tendency of the cost data using two measures that do not take pipeline size into account (the median and the mean) together with the weighted mean, which weights each pipeline's cost change by its transported volumes. Including the weighted mean in this analysis ensures that the cost-change calculation takes sufficient account of pipeline size so that 'minor pipelines do not skew' the result.'' (quoting *AOPL II,* 281 F.3d at 241)).

[225] CAPP states that the Commission should consider adopting periodic rate rebasing, whereby the Commission would reset pipeline rates to the cost-of-service level on a recurring basis through conventional rate proceedings. Christensen Initial Report at 24–25, 28; CAPP Initial Comments at 5. Alternatively, CAPP suggests that the Commission adopt an earnings-sharing mechanism, which would require pipelines to share with shippers a percentage of their earnings that exceed a specified level, or an off-ramp mechanism, where the Commission would evaluate a pipeline's rates in a cost-of-service rate proceeding when the pipeline's ROE exceeds a specified threshold. Christensen Initial Report at 25–26. LEPA urges the Commission to reject CAPP's proposals as outside the scope of the five-year review. LEPA Reply Comments at 32. We decline to adopt periodic rate rebasing or an earnings-sharing or off-ramp mechanism. CAPP's proposals are outside the scope of this proceeding, which addresses the appropriate index level that pipelines may use to adjust their rates over the 2026–2031 period.

[226] LEPA Initial Comments at 8, 23–26 (citing Declaration of William R. Byrd at 2, 9–14 (Byrd Decl.)); Designated Carriers Initial Comments at 11–14 (citing Webb Aff. ¶¶ 40–41; Exs. MJW–D1, MJW–D2, MJW–D3, MJW–D4, and MJW–D5).

[227] Designated Carriers Initial Comments, Ex. 2 at PP 2–5 (Aff. of Shane Brock on behalf of Colonial); *id.,* Ex. 3 at P 2 (Aff. of Justify Kleiderer on behalf of Enterprise (Kleiderer Aff.)); *id.,* Ex. 5 at PP 3–5 (Aff. of Todd Stamm on behalf of Energy Transfer).

[228] Byrd Decl. at 2–12.

[229] *Id.* at 12–13.

[230] LEPA Initial Comments at 8, 27 (citing 2005 Index Review, 114 FERC ¶ 61,293 at PP 60, 63); Designated Carriers Initial Comments at 9–10, 15–16. In particular, Designated Carriers state that existing returns on rate base may be insufficient to justify capital investment. Designated Carriers Initial Comments at 14–17 (citing *id.,* Ex. 3 at P 3 (Aff. of Sharon Spurlin on behalf of Plains); Kleiderer Aff. ¶ 3; Stamm Aff. ¶ 6). In addition, Designated Carriers state that pipelines may decline to propose cost-of-service rate changes to recover their increased costs due to the burdens and uncertainty associated with rate litigation. *Id.* at 16–17.

73. Pipeline Safety Trust and EIC make similar assertions. Pipeline Safety Trust states that pipeline safety requirements have increased over the past five years and that the Commission should adopt an index level that enables necessary investments in pipeline maintenance and integrity.[231] EIC concurs with Pipelines' arguments regarding increasing costs and states that pipelines' ability to invest in building and operating facilities requires a predictable regulatory environment.[232] EIC represents that various factors, including the COVID–19 pandemic, have restricted pipelines' access to capital.[233] Thus, EIC encourages the Commission to adopt an index level that enables pipelines to attract investment in new and existing infrastructure, which EIC states will benefit consumers and help the United States meet rising global energy demand.[234]

74. PHMSA states that although it takes no position on the specific index level the Commission should adopt, it urges the Commission to advance policies that will encourage investment in the maintenance and integrity of oil pipelines and provide incentives to repair and replace higher-risk infrastructure.[235]

75. Shippers dispute Pipelines' and EIC's contentions and state that the Commission has previously found that future costs are speculative and inappropriate for inclusion in the index level calculation.[236] Shippers contend that cost increases related to power, labor, and pipeline safety or integrity measures incurred during the 2019–2024 period are already reflected in the page 700 data used to derive the index.[237] In addition, Shippers argue that future cost increases will be captured in future index reviews and that pipelines may seek to recover those costs in the interim through cost-of-service rate filings, where appropriate.[238] Finally, Shippers state that a higher index is not necessary to encourage investment in pipeline infrastructure and, in any case, the Commission must avoid setting the index at a level that produces unjust and unreasonable rates.[239]

2. Commission Determination

76. We decline to alter our calculation of the index level based upon commenters' general arguments concerning pipeline cost changes during the 2019–2024 period or in future periods. To the extent that pipelines incurred increased power, labor and materials, or regulatory compliance costs during the 2019–2024 period, those cost changes are reflected in pipeline cost data reported on FERC Form No. 6, page 700.[240] We likewise decline to adjust the index level calculation based upon projections of future cost changes occurring after the conclusion of the 2019–2024 period. As the Commission has explained, future cost projections related to regulatory changes or other developments are speculative and inappropriate for inclusion in the index.[241] Changes to pipeline costs that occur after the 2019–2024 period concluded on December 31, 2024 are outside the scope of this index review and will be incorporated as reflected in the page 700 data used in future index calculations.[242]

F. Other Proposed Adjustments to Data Set

1. Comments

77. LEPA proposes to modify the data underlying the Commission's proposal in the NOPR in several respects.[243] First, whereas the Commission's proposal only includes pipelines that filed page 700 cost data for every year of the 2019–2024 period, LEPA states that the Commission should include all pipelines that filed cost data for 2019 and 2024, even if they did not file data for one or more years between 2020–2023.[244] LEPA contends that the absence of cost data between 2020–2023 does not preclude the Commission from comparing the pipeline's cost changes from 2019–2024.[245] Second, LEPA states that the Commission's proposal improperly excludes ExxonMobil Pipeline Company (ExxonMobil) on the basis that it transports volumes related to TAPS.[246] LEPA argues that the Commission should include ExxonMobil in the data set because the significant majority of its volumes in 2019 and 2024 did not relate to TAPS.[247] Third, LEPA proposes to adjust the 2019 cost data reported by four pipelines to correct errors or reflect subsequently filed updates.[248] Fourth, whereas the NOPR's proposal excluded CITGO Pipeline Company (CITGO Pipeline) and CITGO Products Pipeline Company (CITGO Products Pipeline), LEPA proposes to include these pipelines and to adjust their reported 2024 cost data to correct alleged data discrepancies.[249]

78. Joint Commenters oppose LEPA's proposal to include pipelines that did not file page 700 cost data for one or more years between 2020–2023. Joint Commenters contend that this approach would incorporate data filed by pipelines that did not operate continuously throughout the 2019–2024 review period.[250] In addition, Shippers disagree with LEPA's proposal to include ExxonMobil.[251] Shippers contend that even if TAPS-related transportation represents a small portion of ExxonMobil's operations, the Commission has consistently excluded pipelines with any TAPS-related

[231] Pipeline Safety Trust Comments at 1–2.

[232] EIC Comments at 9, 18.

[233] *Id.* at 10–14.

[234] *Id.* at 2–3, 5–6, 8–10, 15–17.

[235] PHMSA Comments at 1.

[236] Joint Commenters Reply Comments at 32 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 58); Liquids Shippers Reply Comments at 18–19 (citing 2020 Index Review, 173 FERC ¶ 61,245 at P 58; 2010 Index Review, 133 FERC ¶ 61,228 at P 125); *see also* EPR Shippers Reply Comments at 5 (citing *AOPL II,* 281 F.3d at 247).

[237] Joint Commenters Reply Comments at 32–35; Liquids Shippers Reply Comments at 16; STUSCO Reply Comments at 11.

[238] Joint Commenters Reply Comments at 28–30; Liquids Shippers Reply Comments at 17; STUSCO Reply Comments at 12; CAPP Reply Comments at 6.

[239] Joint Commenters Reply Comments at 36–38; Liquids Shippers Reply Comments at 19–20; EPR Shippers Reply Comments at 5.

[240] If a pipeline experiences a substantial divergence between its actual costs and the rate resulting from application of the index, it may file to change its rate using the Commission's cost-of-service methodology. 18 CFR 342.4(a); *see also* Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,957 (explaining that ''such circumstances as increased safety or environmental regulations may justify the use of a cost-of-service methodology'').

[241] 2020 Index Review, 173 FERC ¶ 61,245 at P 58; 2010 Index Review, 133 FERC ¶ 61,228 at P 125; *see also AOPL II,* 281 F.3d at 247 (affirming the Commission's practice of calculating the index level based upon historical cost experience rather than predictions about future cost changes).

[242] Cost changes experienced during the 2024–2029 period will be addressed in the 2030 index review.

[243] LEPA Initial Comments at 9–10; LEPA Reply Comments at 30–31. Designated Carriers support LEPA's proposed revisions to the data set. Designated Carriers Reply Comments at 8–9.

[244] LEPA Initial Comments at 9; Shehadeh Initial Decl. at 15–16, 44–45.

[245] *Id.*

[246] LEPA Initial Comments at 10; Shehadeh Initial Decl. at 15 n.23, 45.

[247] Shehadeh Initial Decl. at 45 (stating that approximately 95% of ExxonMobil's throughput in 2019 and 2024 did not relate to TAPS operations).

[248] LEPA proposes to adjust the 2019 cost data reported by (a) Contango Resources, LLC, (b) Enterprise Crude Pipeline LLC, (c) Enterprise Interstate Crude LLC, and (iv) Oryx Southern Delaware Oil Gathering & Transport LLC. Shehadeh Initial Decl. at 45, Ex. A7 & A11a.

[249] *Id.* at 46–47; Shehadeh Suppl. Reply Workpapers at Ex. B7 & Ex. B11a tabs.

[250] Brattle Reply Report at P 153. For instance, Joint Commenters state that LEPA's approach would include Chisholm Pipeline Company (Chisholm), whose 2024 cost data only reflects a partial year of operations between March–December 2024. *Id.* Although CAPP agrees with LEPA's proposal, it argues that the Commission should exclude Chisholm because it reported partial-year 2024 cost data. CAPP Reply Comments at 6; Christensen Reply Report at 14.

[251] Brattle Reply Report at P 156; CAPP Reply Comments at 6; Christensen Reply Report at 14.

operations from the data set used to calculate the index level.[252] Moreover, CAPP opposes LEPA's proposal to include CITGO Pipeline in the data set,[253] while Joint Commenters support including CITGO Pipeline.[254] Both Joint Commenters and CAPP oppose LEPA's proposed adjustments to CITGO Pipeline's and CITGO Products Pipeline's reported 2024 cost data.[255] Joint Commenters and CAPP contend that even if there are discrepancies in those pipelines' reported 2024 cost data, there is no evidence that these discrepancies affected their reported total costs of service.[256] Shippers do not oppose LEPA's proposed adjustments to the four pipelines' 2019 cost data.[257]

79. Joint Commenters propose adjustments related to the treatment of mergers and divestitures and to incorporate updated Form No. 6 data where available.[258] LEPA contends that Joint Commenters incorrectly decline to reflect a merger between Targa Gulf Coast NGL Pipeline LLC (Targa Gulf Coast) and Targa NGL Pipeline Company LLC (Targa NGL). LEPA otherwise supports Joint Commenters' proposed data adjustments.[259]

2. Commission Determination

80. We adopt Joint Commenters' unopposed adjustments to the data set and LEPA's unopposed adjustments to four pipelines' 2019 cost data.[260] Furthermore, we adopt LEPA's proposal to reflect the merger between Targa Gulf Coast and Targa NGL. In October 2020, Targa NGL submitted a tariff filing canceling its last remaining transportation service because Targa Gulf Coast had leased 100% of the capacity on Targa NGL's pipeline.[261] Accordingly, we revise the data set to combine these pipelines' cost data as appropriate.

81. We likewise adopt LEPA's and Joint Commenters' proposals to include CITGO Pipeline and CITGO Products Pipeline in the data set. Although the Commission's proposal in the NOPR excluded these pipelines because they did not report updated cost data for 2020 or 2023 in the previous-year column of their Form No. 6 filings submitted in the following years,[262] we conclude that they are appropriately included in the data set using their originally reported 2020 and 2023 cost data reported in the current-year column of their originally submitted Form No. 6 filings for those years.[263] However, we decline to adopt LEPA's proposed adjustments to CITGO Pipeline's and CITGO Products Pipeline's 2024 cost data. To the extent that these pipelines' 2024 cost data reflect discrepancies, we find that these discrepancies did not affect the page 700 total cost-of-service values that the Commission uses to calculate the index level.

82. We decline to adopt LEPA's proposal to adjust the data set by including pipelines that did not file page 700 cost data for one or more years between 2020–2023. The Commission's practice is to calculate the index level using a data set composed of pipelines that filed Form No. 6 data for the full five-year review period at issue.[264] Adopting LEPA's proposal would only introduce one additional pipeline, Wildrose Pipeline Company (Wildrose), to the data set.[265] However, Wildrose's predecessor entity reported zero barrel-miles for 2022,[266] indicating that Wildrose and its predecessor were not in continuous operation throughout the 2019–2024 review period. On balance, we conclude that the record does not support departing from the Commission's established practice to include Wildrose in the data set.[267]

83. We are likewise not persuaded to adopt LEPA's proposal to include ExxonMobil in the data set. Congress specifically excluded TAPS and ''any pipeline delivering oil directly or indirectly into [TAPS]'' from the provisions of EPAct 1992.[268] Accordingly, the Commission has consistently excluded pipelines that transport TAPS-related volumes, including ExxonMobil,[269] from the data used to derive the index level.[270] Because the record establishes that ExxonMobil transported volumes associated with TAPS operations during the 2019–2024 period,[271] we exclude ExxonMobil from the data set in accordance with the Commission's established practice.

IV. Determination of Prospective Oil Pipeline Index Level

84. Based on the foregoing, we calculate as follows the index level to determine annual changes to oil pipeline rate ceilings for the five-year period July 1, 2026 through June 30, 2031. First, as shown in Attachment A (Exhibit 4, Check tab), we assemble a data set of pipeline cost data from FERC Form No. 6 annual reports, excluding TAPS pipelines and those pipelines that did not file Form No. 6, page 700 data or filed incomplete data. Second, as shown in Attachment A (Model tab), we calculate each pipeline's cost change on a per barrel-mile basis over the prior

[252] Brattle Reply Report at P 156; Christensen Reply Report at 14.

[253] Christensen Reply Report at 14. CAPP argues that the Commission should exclude CITGO Pipeline because its reported 2024 cost data is identical to its reported 2023 cost data.

[254] Brattle Initial Report at P 200, Attach. D at 3; Brattle Reply Report at P 159.

[255] Brattle Reply Report at P 159; CAPP Reply Comments at 6; Christensen Reply Report at 14.

[256] *Id.*

[257] Brattle Reply Report at PP 157–158.

[258] Joint Commenters Initial Comments at 51; Brattle Initial Report at PP 200–202 & Attach. D (listing Joint Commenters' proposed data adjustments); *see also* Attach. A, Ex. 2 (listing 17 mergers and acquisitions reflected in the data set).

[259] LEPA Reply Comments at 30–31; Shehadeh Reply Decl. at 16–19.

[260] *See* Brattle Initial Report, Attach. D at 1–4 (listing Joint Commenters' unopposed adjustments); Shehadeh Suppl. Workpapers at Ex. B11a tab, rows 3–9 (listing LEPA's unopposed adjustments).

[261] Targa NGL Pipeline Co., Tariff Filing, Docket No. IS21–45–000 at 1 (filed Oct. 30, 2020).

[262] *See* NOPR, 193 FERC ¶ 61,145, Workpapers at Model tab (stating that both CITGO Pipeline and CITGO Products Pipeline were excluded from the data set underlying the NOPR proposal).

[263] *See* Brattle Initial Report, Attach. D at 3.

[264] *E.g.,* 2005 Index Review, 114 FERC ¶ 61,293 at P 41 (''Without complete data for [the full review period], a company cannot be included in the dataset.'').

[265] LEPA states that adopting its proposal would introduce three additional pipelines to the data set: (a) Chisholm; (b) BP Pipelines (North America), Inc.; and (c) Wildrose (including its predecessor entity, Hawthorn Oil Transportation (North Dakota), Inc.). Shehadeh Initial Decl. at 15 n.25. However, we exclude Chisholm from the data set because its 2024 cost data reflects a partial year of operations. *See* Attach. A at Exh. 4 tab & Check tab. Moreover, BP Pipelines (North America), Inc. is included in the data set through its merger with BP Midstream Partners LP Company and BP Midwest Product Pipelines Holdings LLC. Thus, adopting LEPA's proposal to include pipelines that filed cost data in 2019 and 2024 but did not file cost data for at least one year between 2020–2023 would only introduce Wildrose to the data set.

[266] Brattle Reply Report at P 153.

[267] In any case, excluding Wildrose from the data set produces no material change in the resulting index level.

[268] EPAct 1992 1804(2)(B).

[269] *E.g.,* 2020 Index Review, 173 FERC ¶ 61,245, Attach. A at TAPS tab (including ExxonMobil among pipelines excluded from data set as TAPS pipelines); 2015 Index Review, 153 FERC ¶ 61,312, Attach. A at Company Exclusions tab (excluding ExxonMobil from the data set used to calculate the index level in the 2015 Index Review). We observe that LEPA's witness Dr. Shehadeh proposed to exclude ExxonMobil as a TAPS asset in prior index reviews. Ass'n of Oil Pipe Lines, Decl. of Ramsey D. Shehadeh, Ph.D., Docket No. RM15–20–000, Workpapers at Ex. A9 tab (filed Aug. 24, 2015) (including ExxonMobil among the ''TAPS Assets'' excluded from proposed data set); Ass'n of Oil Pipe Lines, Decl. of Ramsey D. Shehadeh, Ph.D., Docket No. RM10–25–000, Workpapers at Ex. A13 tab (filed Aug. 20, 2010) (same).

[270] *See, e.g.,* 2010 Rehearing Order, 135 FERC ¶ 61,172 at P 16 (''[T]he TAPS pipelines are . . . not subject to the index adjustment due to the provisions of the EPAct.'').

[271] Shehadeh Initial Decl. at 45 (acknowledging that approximately 5% of ExxonMobil's transported volumes in 2019 and 2024 related to TAPS operations); Brattle Reply Report at P 156 (stating that in 2024, ExxonMobil reported a higher number of barrel-miles associated with TAPS operations (23.8 billion barrel-miles) than with non-TAPS operations (22.4 billion barrel-miles)).

five-year period, 2019–2024. Third, we adjust pipelines' 2019 cost data to account for the ROE Policy Change, as discussed above in section III.A. Fourth, to remove statistical outliers and potentially spurious data, we trim the data set to those pipelines in the middle 80% of cost changes. Fifth, as shown in Attachment A (Exhibit 1), we calculate three measures of the trimmed dataset's central tendency: the median, the mean, and a weighted mean. Sixth, we calculate a composite central tendency by averaging the median, mean, and weighted mean, as shown in Attachment A (Exhibit 1). Finally, we compare this composite to the change in PPI–FG over the same 2019–2024 period and set the index level at PPI–FG minus this differential. Using these calculations, we establish an index level of PPI–FG—0.55% for the five-year period beginning July 1, 2026.

V. Information Collection Statement

85. The information collection requirements contained in this final order are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[272] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[273]

86. This final order affects a currently approved information collection. Changes described in this final order are non-substantive and do not change any filing requirements; rather, this final order adjusts an aspect of the calculation that is used in an annual tariff filing that FERC-jurisdictional oil pipelines are required to submit to the Commission. This aspect of the calculation is reviewed and updated every five years.

Summary of Information Collection

Title: FERC–550, Oil Pipeline Tariff Filings & Depreciation Studies.

Action: Non-substantive change adjusting an aspect of the calculation that is used in annual oil pipeline tariff filings.

OMB Control Nos.: 1902–0089 (FERC–550).

Respondents: Oil Pipelines.

Frequency of Information Collection: On occasion in compliance with requirements.

Necessity of Information: The reforms in this proposed rule are necessary to ensure that the rates of oil pipelines are just and reasonable.

Public Reporting Burden: The burden and cost related to filing an oil pipeline tariff will not change due to this final order. The currently approved hourly burden for submitting a tariff filing is 7 hours ($721).[274]

VI. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and Executive Order 14192 (Unleashing Prosperity Through Deregulation).

87. Executive Order 12866 (Regulatory Planning and Review), as amended by Executive Order 14215 (Ensuring Accountability for All Agencies) and supplemented by Executive Order 13563 (Improving Regulation and Regulatory Review), directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has designated this final order a ''significant regulatory action'' that is economically significant under section 3(f)(1) of Executive Order 12866. Accordingly, OMB has reviewed this final order. The regulatory impact analysis (RIA) associated with this rulemaking can be found in this docket on the Commission's eLibrary system. The following represents a summary of the aforementioned regulatory impact analysis.

88. The index level established in this final order will influence rates for interstate oil pipeline transportation service, which will affect the interests of interstate oil pipelines and shippers on interstate oil pipelines.[275] The RIA considers the potential impacts of the index level established herein relative to two baselines.[276] The first baseline (Baseline 1) assumes that a final rule establishing a new index level for the 2026–2031 time period is not issued and assumes that the index level established for 2021–2025 would remain effective for 2026–2031. The second baseline (Baseline 2) assumes that a final rule establishing an index level for the 2026–2031 time period is not issued, and that there is no effective index level and pipelines are thus precluded from changing their rates pursuant to the Commission's indexing regulations for the 2026–2031 period. The index level established in this final order will reduce interstate oil pipeline transportation revenues during the five-year period that the index would be effective as compared to Baseline 1 and will increase oil pipeline revenues during the five-year period that the index would be effective as compared to Baseline 2.[277]

89. As discussed in the RIA, this final order will not create any measurable costs or benefits outside of these effects experienced by pipelines and shippers. While there are circumstances in which pipeline transportation rates can indirectly affect financial interests outside of pipelines and shippers (for example, lower pipeline transportation rates could affect commodity prices for refineries, prices of petroleum, or pipeline infrastructure investment), these impacts are sufficiently attenuated or otherwise so minimal as to not result in significant costs.[278]

90. The RIA also describes the regulatory alternatives that the Commission considered and the estimated effects of alternative index levels on annual interstate oil pipeline transportation revenues as compared to the baselines. The alternative index levels reflect different combinations of regulatory alternatives proposed by commenters, including different approaches to the three issues on which the Commission requested comment in the NOPR.[279] Two index levels that result from regulatory alternatives considered in the RIA are higher compared to the index level established herein, and two index levels that result from regulatory alternatives are lower than the index level established herein.

91. This final order is considered to be a *de minimis* regulatory action under Executive Order 14192.

VII. Executive Order 13132 (Federalism)

92. Executive Order 13132 (Federalism) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to

[272] 44 U.S.C. 3507(d).

[273] 5 CFR 1320.11.

[274] The hourly cost used in this calculation is based on the estimated average annual cost per FERC FTE, including salary + benefits of $103 per hour, or $214,093 per year.

[275] Approximately 350 pipelines file tariff rates with the Commission for interstate transportation of crude oil and petroleum products, and approximately 86% of rates are set under the indexing method. For more information about who is affected by the NOPR, *see* section II.C of the RIA.

[276] *See* RIA, section II.E.

[277] For more information about the effects of the NOPR as compared to Baseline 1 and Baseline 2, *see* RIA, section II.F. *See also* RIA, Appendix.

[278] *See id.* section II.G.

[279] For further details about the regulatory alternatives considered by the Commission and their estimated effects on annual interstate oil pipeline transportation revenues, *see* RIA, section II.H & Appendix.

examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions.

93. The Commission has examined the final rule and determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Commission has not prepared a federalism assessment.

VIII. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

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

95. The Commission has determined that this final order would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, the Commission has not prepared a Statement of Energy Effects.

IX. Environmental Analysis

96. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[280] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in this exclusion are final rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[281] The action taken herein falls within this categorical exclusion in the Commission's regulations.

X. Regulatory Flexibility Act

97. The Regulatory Flexibility Act of 1980 (RFA)[282] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[283] The SBA defines a small oil pipeline company as one with less than 1,500 employees.[284] Based on this definition, the Commission identified 43 small entities that the final rule will affect. As discussed above, the burdens and costs associated with filing oil pipeline tariffs will not change as a result of the final rule. The currently approved hourly burden for submitting a tariff filing is 7 hours ($721). We view this as a minimal economic impact for each entity. Accordingly, we certify that the final rule will not have a significant economic impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is required.

XI. Document Availability

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

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

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

XII. Effective Date and Congressional Notification

101. This final order is effective June 29, 2026. The Commission has determined, with the concurrence of the Office of Information and Regulatory Affairs of OMB, that this rule is a ''major rule'' as defined in Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804(2).

The Commission Orders

Consistent with the discussion in this order, the appropriate oil pipeline index level for the five-year period from July 1, 2026, through June 30, 2031 is PPI–FG–0.55%.

By the Commission. Chairman Swett is concurring with a separate statement attached.

Commissioner Rosner is concurring with a separate statement attached.

Commissioner See is concurring with a separate statement attached.

Commissioner Chang is dissenting with a separate statement attached.

Commissioner LaCerte is concurring with a separate statement attached.

Issued: April 24, 2026.

Debbie-Anne A. Reese,

Secretary.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Five-Year Review of the Oil Pipeline Index

Docket No. RM26–6–000

(Issued April 24, 2026)

SWETT, Chairman, *concurring:*

1. Today's order should not raise gas prices at the pump, or the price of airfare for ordinary Americans. The reality is that pipeline transportation costs represent a tiny fraction of the total price of fuel from an end-use consumer's perspective.[1]

2. This order is no windfall for the pipelines, but rather a routine mechanism to make them *whole* by ensuring that the rates they receive for a critical national service reflect industry cost increases. Consistent with our well-established practice in conducting five-year index reviews, our task is to ensure that the index continues to ''accurately track cost changes in the pipeline industry''—using PPI–FG as a baseline measure for inflation, appropriately ''adjusted to

[280] *Reguls. Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[281] 18 CFR 380.4(a)(2)(ii).

[282] 5 U.S.C. 601–612.

[283] 13 CFR 121.101.

[284] *Id.* 121.201, Subsector 486 (Pipeline Transportation).

[1] Moreover, this proceeding concerns only marginal adjustments to the rate at which pipelines may raise their rates under indexing (itself just one of multiple methods oil pipelines may use when changing rates). Thus, from an end-use consumer's perspective, the contested issues here would at most implicate small differences to an already minuscule cost component (*i.e.,* pipeline transportation).

account for actual cost changes experienced by the oil pipeline industry.'' [2]

3. That is a largely technical and data-driven exercise. In this instance, the primary points of contention revolve around (1) whether to adjust the data used to calculate the index level to account for the 2020 change in Commission policy for determining oil pipelines' allowed rate of return on equity, (2) whether the index calculation should incorporate resubmitted 2019 cost data, and (3) whether ''trimming'' the data set to the middle 80%, or instead the middle 50%, provides a more representative picture of industry cost experience.

4. I will not reprise in detail the reasons for our resolution of those issues here, which are fully explained in the order. Suffice to say that our decision on each of those points is consistent with Commission precedent, amply supported by the record, and—most importantly—advances the index's basic cost-tracking purpose. But because the bottom-line result of our index review is likely to loom larger than the technical details of how we reached that result, I write separately to contextualize today's order in the bigger picture of our rate regulation under the Interstate Commerce Act (ICA).

5. Our important but limited charge under the ICA is to ensure that interstate oil pipeline rates are just and reasonable.[3] At the broadest level, carrying out that statutory responsibility entails balancing the need to protect shippers from excessive rates—particularly rates that may reflect abuses of market power—and the need to ensure that pipelines receive fair returns, which is in turn a prerequisite to the long-term health of (and adequate future investment in) the nation's oil pipeline infrastructure. We have sought to strike that balance, consistent with our other statutory obligations,[4] through the detailed ratemaking system established under our regulations—including the indexing methodology introduced in Order No. 561.

6. The purpose of our five-year index reviews is not to revisit that balance. We are simply making incremental adjustments to the index level to reflect cost changes in the industry. While that inevitably involves some judgment calls, those judgment calls are guided by a concern for empirical and economic accuracy. In short, our narrow task in this proceeding is to faithfully advance the cost-tracking purpose of our index review, not to pick economic winners or losers.

7. Finally, it bears keeping in mind that, insofar as end-use consumers have a stake in the outcome of our index reviews, it is by no means a one-sided equation. Although the benefits of lower-priced services are self-explanatory, ordinary Americans' interests are not served by *excessively low* pipeline rates. That would risk disincentivizing investment in the infrastructure that provides the least expensive and safest method of transporting the energy products our day-to-day lives and economy depend on.[5]

8. Today's order faithfully holds the line we established when we created the indexing system, ensuring—as promised in Order No. 561—that the index keeps apace with industry cost trends. Broader policy questions about whether our approach to oil pipeline rates under the ICA is well-adapted to today's economic realities, and whether that overall approach best balances and serves the competing interests at stake, are for another day.

For these reasons, I respectfully concur.

Laura V. Swett,

Chairman.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Five-Year Review of the Oil Pipeline Index

Docket No. RM26–6–000

(Issued April 24, 2026)

ROSNER, Commissioner, *concurring:*

1. I concur with today's order because, while I may have preferred different decisions on some of the inputs to the index, I believe the oil index finalized today meets the Commission's obligation under the Interstate Commerce Act (ICA): to create and apply a ''simplified and generally applicable ratemaking methodology for oil pipelines.'' [1] And while I applaud the thorough and comprehensive statement from my colleague Commissioner Chang and am sympathetic to her well-made points, I believe we have met the ICA's standard. I write separately because the Commission is at its strongest, particularly in complex, historically controversial rulemakings like this one, when our five-member Commission is able to meet in the middle to accommodate differing perspectives, and we are able to act by consensus.

2. My concurrence is informed by the recent history of the Commission's prior oil index. The divided Commission's fracture in that proceeding produced tremendous uncertainty for both oil pipelines and their customers, and ultimately resulted in a D.C. Circuit remand, vacatur, scores of refund applications, and overall volatility associated with the Commission's oil ratemaking regime. This did not yield the clarity and dependability of a Commission work product that unlocks certainty and investment for the oil industry, or for anyone—whether associated with downstream economic sectors, or everyday American consumers.

3. The outcome of this proceeding matters, and in my view, would be best served with the strength and clarity that comes from a unanimous, compromise outcome. We are engaged here in far more than a mathematical exercise, and we do so during a moment when energy prices, particularly gasoline prices, are high across the country, with material impacts to oil pipeline customers, including airlines, small refiners, independent gas stations, and end use customers. On an annual basis, the index adopted here allows oil pipeline revenues to increase by a maximum of about 4 percent per year, a value that is largely based on actual inflation over the prior 5 years. The specific changes we have made since the unanimous NOPR proposal cost an additional $4.5 billion, cumulatively, about 2.5% of estimated industry-wide revenue of $176.6 billion over the next 5 years.

4. The Commission embarked on this new oil index rulemaking intent on leaving the chaos of the prior index behind us. Our unanimous vote on the underlying NOPR proves that we are capable of doing so. I continue to believe that our deliberative panel could have found a way to reach a compromise, and achieve a final rule with five votes, and with it unlock the benefits of unanimity for all who

[2] *Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336, 340 (D.C. Cir. 2017) (cleaned up).

[3] 49 U.S.C. app. 1(5).

[4] Notably, the Energy Policy Act of 1992's mandate to develop a ''simplified and generally applicable'' ratemaking methodology. Public Law 102–86, 1801(a), 106 Stat. 3010 (Oct. 24, 1992), *codified at* 42 U.S.C. 7172 note.

[5] *See, e.g.,* Kenneth P. Green & Taylor Jackson, *Pipelines Are Safer Than Rail in the Transportation of Oil and Gas,* Manhattan Institute (Aug. 12, 2015), *https://manhattan.institute/article/pipelines-are-safer-than-rail-in-the-transportation-of-oil-and-gas;* Tracy Johnson, *Pipelines vs. Trains: Which Is Better for Moving Oil?,* CBC News (Mar. 10, 2015), *https://www.cbc.ca/news/business/pipelines-vs-trains-which-is-better-for-moving-oil-1.2988407.*

[1] Pursuant to authority granted to it under the ICA, see 49 U.S.C. app. § 15(1) (1988), and the Energy Policy Act of 1992, see Public Law 102–486, 1801(a), 106 Stat. 2776, 3010 (codified at 42 U.S.C. 7172 note (2006)), the Commission employs an indexed ratemaking system to govern oil pipeline rates.

depend on a durable oil index. However, I support the order as meeting both our statutory mandate and the need to provide rate clarity for the next five years to America's oil industry.

For these reasons, I respectfully concur.

David Rosner,

Commissioner.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Five-Year Review of the Oil Pipeline Index

Docket No. RM26–6–000

(Issued April 24, 2026)

SEE, Commissioner, *concurring:*

1. Today's order exists because Congress directed the Commission to implement a ''simplified and generally applicable ratemaking methodology'' for oil pipelines as an efficient way to uphold the Interstate Commerce Act's just and reasonable standard.[1] So every five years we undertake a rigorous and data-driven analysis of the industry-wide cost changes that pipelines experience in an effort to recalibrate the index to current market conditions. Our aim is to reasonably align pipeline ceiling rates with the oil sector's economic realities in an administratively streamlined fashion, as an alternative to case-by-case rate cases. This practice supports fair compensation for carriers, promotes incentives for investing in critical infrastructure, and maintains reliable price signals for oil transportation. The results of the index itself are a small part of overall consumer rates, but our regular indexing effort is an important tool within the sector. Indexing works in practice because it is transparent, repeatable, and predictable, all of which ultimately supports fair compensation for carriers and reliable price signals for shippers and investors.

2. It's easy to agree on those goals behind periodic indexing. But in practice, applying a transparent indexing process is still a technical and highly record-driven task. Reasonable minds can draw potentially different outcomes from the data before us within a given cycle, and reasonable minds can take different approaches within the Commission's overall methodology across cycles, too. I leave to the Final Rule to explain in detail why the Commission landed on the specifical technical judgments in this index iteration. I write here briefly to underscore that some variation across index cycles can be a feature, not a bug, when it comes to applying Commission expertise to a record that's grounded in the unique circumstances and policies inherent to any five-year stretch of time.

3. Focusing on our decision to trim to the middle 80%: The Commission has long recognized that we must do some statistical trimming to keep outliers from distorting industry cost trends. The decision where to trim oil pipeline cost data is record driven.[2] It may not always be true that more data is better than less, but in this cycle it is. Here, using the middle 80% provides a robust and representative sample of pipeline cost experience, avoids prematurely discarding relevant observations, and better reflects the diversity of operations and barrel-mile coverage than narrower bands would. The middle 80% of the data set comprises 94% of industry-wide barrel miles, which helps give confidence that the index is representative while omitting true outlying data that would distort the calculation. This approach also aligns with Commission practice in the most recent five-year review cycle.

4. True, the Commission has not always trimmed to 80%. But data trimming is as much a record-grounded art as a math equation. Different trimming bands (50%, 80%, or otherwise) could be reasonable in different cycles depending on the nature of industry activity during the measurement period that bears on how reported cost changes are distributed. Our choice of an 80% trimming band here reflects our judgment that this record warrants broader representativeness; it doesn't imply that narrower trimming would be unreasonable in future cycles. For example, if we see more pipeline construction and targeted expansions of existing systems in the next five years—and given our nation's infrastructure needs, I hope that we do—those operational- and market-driven changes would likely bring more outlier pipelines to our cost change analysis. Faced with a record like that, a narrower trimming band might end up better capturing the ''normal'' industry experience by eliminating any non-representative cost spikes.

5. What matters most to my mind is consistency in methodology, not necessarily in outcome. Our goal in applying the Commission's methodology is to fairly collect and validate cost experience, then remove outliers to avoid distortion, and finally set an index that credibly tracks central tendencies over the last five years. As industry conditions change, the precise trimming band the method yields can change, too. And in cases where the record could potentially support multiple outcomes, we're called to apply our judgment in choosing where best to draw the line given the record before us. In this proceeding, trimming to the middle 80% meets that responsibility.

Given the facts of this case, I respectfully concur with today's order.

Lindsay S. See,

Commissioner.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Five-Year Review of the Oil Pipeline Index

Docket No. RM26–6–000

(Issued April 24, 2026)

CHANG, Commissioner, *dissenting:*

1. In today's order,[1] the Commission establishes the five-year oil pipeline index as (PPI–FG)—0.55%. I dissent from that result because I disagree with the order's decision to (1) apply a uniform return on equity (ROE) modification to account for changes in the Commission's ROE policy, and (2) adopt a data set trimmed to the middle 80% of cost changes rather than the middle 50%. Instead, I would establish the five-year index value as (PPI–FG)—1.68%, which is consistent with relevant precedent and supported by the record.

I. Background

2. The Commission's oil pipeline indexing methodology is a ratemaking construct unique to its regulation of transportation rates under the Interstate Commerce Act (ICA). Developed in response to Congress' directive in the Energy Policy Act of 1992 to establish a ''simplified and generally applicable'' ratemaking methodology,[2] the index allows pipelines to annually adjust their rates subject to a cap rather than relying on lengthy, complex cost-of-service proceedings.[3] While the index is the

[1] 49 U.S.C. app. § 1 *et seq.* (1988).

[2] *See, e.g., Five-Year Review of Oil Pipeline Index,* 133 FERC ¶ 61,228, at PP 61–63 (2010) (explaining that data trimming to the middle 50 percent of pipelines is appropriate based on the record); *Five-Year Rev. of the Oil Pipeline Index,* 173 FERC ¶ 61,245, at PP 25–32 (2020) (explaining that it is preferable to consider additional data and trim to the middle 80 percent of pipelines because it more fully reflects the diversity of cost experiences based on the record).

[1] *Five-Year Rev. of the Oil Pipeline Index,* 195 FERC ¶ 61,062 (2026) (Final Rule).

[2] Public Law 102–486, 1801(a), 106 Stat. 2776, 3010 (Oct. 24, 1992), codified at 42 U.S.C. 7172 note.

[3] *Revisions to Oil Pipeline Regulations Pursuant to Energy Pol'y Act of 1992,* Order No. 561, FERC Stats. & Regs. ¶ 30,985, at 30,947 (1993) (cross-

predominant method used to set rates under the ICA, pipelines have multiple options for establishing and updating their rates, including cost-of-service filings, qualifying for market-based rates, and the use of negotiated or settlement rates, particularly for the development of new infrastructure.[4]

3. In 1993, Order No. 561 set the ''Kahn Methodology'' as the approach that the Commission uses to collect and trim cost data provided by the pipelines [5] and to compare their cost changes against an inflation rate in the economy, as measured by the Producer Price Index—Finished Goods (PPI–FG) set by the Bureau of Labor Statistics. The Commission updates the resulting oil pipeline index every five years through a review of industry-wide cost changes over the preceding five-year period. The Final Rule succinctly summarizes how the calculation works:

> Each pipeline's cost change is calculated on a per-barrel-mile basis over the previous five-year period (*e.g.,* the years 2019–2024 in this proceeding). To remove statistical outliers and potentially spurious data, the resulting data set is trimmed (*e.g.,* to the middle 80% or middle 50%) by removing an equal number of pipelines from the top or bottom of the distribution. The Kahn Methodology then calculates three measures of the trimmed dataset's central tendency: median, mean, and weighted mean.[ ] The Kahn Methodology calculates (a) a composite central tendency by averaging the median, mean, and weighted mean and (b) the difference between the composite central tendency of per-barrel-mile cost changes and the percentage change in PPI–FG over the prior five-year period.[ ]

4. This measurement, the difference between observed pipeline cost changes and PPI–FG, generates an index that the Commission applies for the prospective five-year period, that is PPI–FG *plus* or *minus* a percentage.[6] This means that if PPI–FG were 3% in a particular future year, the pipelines' rates are allowed to increase by 3% *plus* or *minus* the amount set by the 5-year oil pipeline index.[7] Each year, effective July 1, pipelines are allowed to adjust their ceiling rate using that index,[8] which sets the maximum rate that a pipeline can charge for transportation services if it is using the indexing methodology.

5. This proceeding addresses the index for the upcoming five-year period (July 1, 2026–June 30, 2031), relying on data submitted by jurisdictional pipelines for the 2019–2024 period. Among the issues raised in the record are: (1) whether the Commission should adopt changes to pipelines' filed 2019 ROEs to account for a change in the Commission's oil pipeline ROE policy; and (2) a standing question in each five-year cycle, of what data trimming the Commission should apply.[9]

II. The Order Errs by Adopting a Uniform ROE Modification To Diverse Pipelines' Reported 2019 ROEs

6. As discussed below, I disagree with the order's adoption of a proposal by the Liquid Energy Pipeline Association (LEPA) to apply a uniform ROE modification to the wide ranging and diverse pipelines' 2019 reported cost data. LEPA's proposal is conceptually flawed, conflicts with relevant Commission precedent, and is inconsistent with the pipelines' independent derivation of their own reported ROEs. As a result, LEPA's proposal does not yield a credible ROE value to be included in the 2026–2031 oil pipeline index.

A. Background

7. Beginning with the 2015 index cycle, the Commission has used data from page 700 of Form No. 6 as the basis for its index calculation. Whereas the Commission's prior calculations relied on alternative proxies for each pipeline's cost of capital (including ROE),[10] the data includes a calculated cost-of-service for each oil pipeline based on inputs including expenses, depreciation, and return based on the rate base of investments net of depreciation and the rate of return, which itself includes each pipeline's reported ROE. This cost-of-service rate is then divided by the pipeline's total barrel-miles to determine the cost per barrel-mile. The Commission then compares that cost per barrel-mile of the two end points of the study period (here 2019 and 2024) to calculate the cost growth rates for each pipeline. After trimming the data set, the Commission calculates the average of the mean, weighted mean, and median growth rates in cost per barrel-mile of all applicable pipelines minus the then relevant PPI–FG to determine the index level to be applied to the next five years. These steps were specified in the Kahn Methodology.

8. In 2019, the Commission revised its ROE policy for electric utilities to, among other revisions, combine use of its existing Discounted Cash Flow (DCF) methodology with the Capital Asset Pricing Model (CAPM) methodology.[11] In 2020, it extended that methodology to oil pipeline and natural gas rates, which previously relied only on the DCF methodology.[12] As a result, following issuance of the ROE Policy Statement, each oil pipeline is required to annually derive and report its ROE on page 700 using the average of ROEs calculated using the DCF and CAPM methodologies (ROE Policy Change).

9. In the ROE Policy Statement, the Commission recognized that the ROE

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referenced at 65 FERC ¶ 61,109), *order on reh'g,* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 (1994) (cross-referenced at 68 FERC ¶ 61,138), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996).

[4] *E.g.,* 18 CFR 342.4 (specifying cost-of-service rates, market-based rates, and settlement rates as alternative rate methodologies to indexing); *see also* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 at 31,097 (''Extraordinary costs can be recovered through either of the alternate rate change means—cost of service or settlement rates—as provided in [Order No. 561].''); *Saddlehorn Pipeline Co., LLC,* 169 FERC ¶ 61,118 (2019) (approving rates, terms, and conditions established through an open season for a system expansion).

[5] Since 2015, the Commission has relied upon data submitted by pipelines via page 700 of Form 6 to calculate the industry-wide cost changes used to establish the index. *Five-Year Rev. of Oil Pipeline Index,* 153 FERC ¶ 61,312, at PP 12–18 (2015) (2015 Final Rule), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336 (D.C. Cir. 2017) (*AOPL III*).

[6] If pipelines' observed cost changes are *lower* than inflation as measured by PPI–FG, then the index will be a negative number. If pipelines' observed cost changes are *higher* than inflation as measured by PPI–FG, then the index will be a positive number.

[7] These multipliers are posted each year by the Commission. FERC, *Oil Pipeline Index Indexing Methodology—Indices to be Used, https://www.ferc.gov/general-information-1/oil-pipeline-index.* The posted multiplier can vary significantly, largely driven by whether inflation (as measured via PPI–FG) is higher or lower. For example, the multiplier for July 1, 2021–June 30, 2022 (derived during the first year of the COVID pandemic, when inflation was very low) was 0.994188, *i.e.,* a *reduction* in the pipelines' ceiling rates. By comparison, the multiplier for July 1, 2022–June 20, 2023 (*i.e.,* derived as the economy emerged from the COVID pandemic, when inflation was high) was 1.097007, *i.e.,* a nearly 10% increase in the pipelines' ceiling rates.

[8] So, for example, assume the Commission adopted an index of +1%. If the PPI–FG inflation measure for year one of the five-year cycle was 2%, then the annual multiplier would be 1.03, *i.e.,* a 3% increase in pipelines' ceiling rates. If the PPI–FG measure for year two was 3%, then the multiplier for that year would be 1.04%, and the net increase of pipelines' ceiling rates across both years would be 7.12% (*i.e.,* 1.03 * 1.04).

[9] Before turning to the merits of these issues, I have one point of clarification. My assessment of this proceeding is informed and bound by the Commission's adoption of the Kahn Methodology, applied to pipelines' filed page 700 data, as its chosen means of satisfying Congress' mandate for a ''simplified and generally applicable'' ratemaking methodology. I am under no illusion that this methodology or data set are perfect, and both contain analytical or evidentiary shortcomings. I am open to future refinements to the methodology and data set to ensure that subsequent index cycles are as analytically sound as possible.

[10] 2015 Final Rule, 153 FERC ¶ 61,312 at P 14 (noting that the Commission previously ''used net carrier property as a proxy for capital costs and income taxes'').

[11] *Ass'n of Bus. Advocating Tariff Equity* v. *Midcontinent Indep. Sys. Operator, Inc.,* Opinion No. 569, 169 FERC ¶ 61,129 (2019).

[12] *Inquiry Regarding the Comm'n's Pol'y of Determining Return on Equity,* 171 FERC ¶ 61,155 (2020) (ROE Policy Statement).

Policy Change could have implications for the upcoming 2020 index cycle, which was based on filed page 700 data from 2014–2019.[13] The Commission expressly ''encourage[d] oil pipelines to file updated FERC Form No. 6, page 700 data for 2019 reflecting the revised ROE methodology established herein,'' and noted that ''[a]lthough the Commission will address this issue further in the five-year review, reflecting the revised methodology in page 700 data for 2019 may help the Commission better estimate industry-wide cost changes for purposes of the five-year review.'' [14] The Commission subsequently issued a notice, establishing July 21, 2020 as the deadline for pipelines to voluntarily submit updated 2019 data reflecting the ROE Policy Change and clarify how they derived their filed 2019 ROEs.[15] Only two pipelines submitted updated 2019 data in response to this invitation, and as a result, the vast majority of pipelines did not revise their 2019 data to incorporate the ROE Policy Change. However, pipelines presumably began calculating and reporting their ROEs prospectively to reflect the ROE Policy Change (*i.e.,* reporting ROEs that averaged values derived using both the DCF and CAPM methodologies, including for the year 2024, the end point of the period under consideration in this index cycle).

10. The current five-year index cycle relies on the pipelines' cost data from 2019–2024. In the NOPR,[16] the Commission proposed to calculate the index level with the pipelines' reported 2019 data, without having the Commission adjust the 2019 data to reflect the ROE Policy Change. The NOPR recognized that the ''Commission has never adjusted ROE in a prior index proceeding,'' and stated its ''concern[] that adjusting the data in light of the ROE Policy Change would be a complex and difficult endeavor that would be inconsistent with index's purpose as a simplified and streamlined process.'' [17]

11. In response, LEPA submitted a proposal specifically designed to account for the ROE Policy Change, *i.e.,* that each oil pipeline's ROE will be determined by averaging ROEs derived using the CAPM and DCF methodologies. LEPA proposes a modification to each pipeline's FERC Form No. 6, page 700, filed ROE for 2019 for purposes of calculating the index. Specifically, instead of using each applicable pipeline's 2019 filed ROE, LEPA proposes to average each pipeline's originally-filed ROE, which varies by pipeline, with a single CAPM-derived ROE of 8.3% (ROE Modification). This value resulted from the methodology and proxy group from a litigated proceeding involving a single pipeline, Colonial, with adjustments for different financial conditions for the test year of that proceeding and the 2019 Form No. 6 data.[18] The effect of the ROE Modification would be to blend a uniform, industry-wide ROE value with each pipeline's reported ROE for 2019, and to then use that blended value and compare it to the pipeline reported data for 2024, to set the index.

B. Commission Precedent and the Record Do Not Support Adoption of a Uniform ROE Modification To Address the ROE Policy Change

12. My assessment of the record on the ROE Modification is guided by the following analysis: (1) is it appropriate to adjust the originally-filed 2019 data to account for the ROE Policy Change; (2) if yes, does the record establish that there is a methodologically-sound and generally-applicable modification that is consistent with the simplified design of the Commission's indexing methodology; and (3) if yes, does the record establish what that generally-applicable modification should be. The Commission should only adopt a proposal if that modification satisfies all three questions. LEPA's proposal does not. Instead, the order's tinkering with the index methodology through the *ex post* application of the ROE Modification introduces methodological infirmities, is inconsistent with Commission precedent, and is unsupported by the record. Accordingly, I would use the pipelines' filed 2019 data to determine the index, rather than making a modification to account for the ROE Policy Change.[19]

1. The Use of a Uniform ROE for Oil Pipelines Is Conceptually Flawed

13. As a threshold matter, the ROE Modification rests on a simple but incorrect premise: that a single ROE can be derived for an industry as diverse as the oil pipeline sector. This premise conflicts with the basic design of the Commission's ROE policy.

14. An oil pipeline's risk profile is central to the Commission's ROE analysis. As the Commission explained in the ROE Policy Statement:

> Because most . . . oil pipelines are wholly owned subsidiaries and their common stocks are not publicly traded, the Commission must use a proxy group of publicly traded firms *with corresponding risks* to set a range of reasonable returns. The firms in the proxy group must be *comparable to the pipeline whose ROE is being determined,* or, in other words, the proxy group must be ''risk-appropriate.'' The range of the proxy group's returns produces the zone of reasonableness in which the pipeline's ROE may be set *based on specific risks.* Absent unusual circumstances showing that the pipeline faces anomalously high or low risks, the Commission sets the pipeline's cost-of-service nominal ROE at the median of the zone of reasonableness.[20]

15. These statements emphasize certain critical elements of the ROE analysis: (1) these assessments are pipeline-specific; (2) the proxy group and corresponding zone of reasonableness for each pipeline must be composed of publicly traded firms with comparable risk profiles to the pipeline; and (3) the specific pipeline's relative risk profile within that zone of reasonableness will determine the placement of the pipeline's ROE in that zone. And these requirements make sense, as a pipeline's rate of return should be tailored to the level needed to secure capital investment. That level will naturally and properly vary based on a pipeline's specific characteristics and risks, which could include, among others: (1) the level of competition that it faces; (2) whether its revenues vary significantly or are relatively stable; (3) the age, condition, and location of its system; (4) the types of products it transports; and (5) physical or cyber risks to its system.

16. LEPA's proposal turns this analysis on its head. Instead of tailoring an ROE analysis to pipelines' specific risk profiles, LEPA compresses the entire industry into a single, uniform proxy group and risk profile, then assigns the entire industry a single CAPM-based ROE. A simple example highlights the defects in this approach. Take two companies that are part of the data set: (1) South Bow, which operates a major interstate pipeline system that runs from Canada to the Gulf and reports earnings in excess of $1.3 to $1.4

[13] Pursuant to the schedule provided in the section 357.2(b)(2) of the Commission's regulations, oil pipelines submitted their 2019 page 700 data in April 2020, one month prior to the Commission's announcement of the ROE Policy Change.

[14] ROE Policy Statement, 171 FERC ¶ 61,155 at P 92.

[15] *Inquiry Re: the Commission's Policy for Determining Return on Equity; Five-Year Review of the Oil Pipeline Index,* Docket Nos. PL19–4–000 and RM20–14–000 (July 7, 2020).

[16] *Five-Year Rev. of the Oil Pipeline Index,* 193 FERC ¶ 61,145, at P 6 (2025) (NOPR).

[17] *Id.* P 13.

[18] Final Rule, 195 FERC ¶ 61,062 at P 12.

[19] As discussed below in section II.C.5, use of the pipelines' filed 2019 data is consistent with the Commission's broader reliance on the accuracy of page 700 data and is an appropriate resolution on this record, given that the pipelines' election *not* to update their filed ROEs following the ROE Policy Change.

[20] ROE Policy Statement, 171 FERC ¶ 61,155 at P 6 (emphasis added).

billion in revenues; and (2) Andeavor Gathering, which operates a small gathering system and reports annual revenues between $3.5 and $5.6 million. These pipeline companies face very different risks: they operate in geographically different markets, have drastically divergent level of revenues, and operate in different sectors of the industry (long-distance transportation versus localized gathering). Yet, under LEPA's proposal, these pipelines are deemed to face comparable risk and are assigned an identical CAPM-based ROE value.

17. LEPA's proposed approach is at odds with the Commission's ROE policy. And as discussed in the next section, the Commission recognized the inherent contradictions and complications created by imputing a single ROE to the entire industry when it rejected a similar proposal from shippers in the last index cycle.

2. The Commission Has Considered and Rejected Application of a Uniform, Industry-Wide ROE for Oil Pipelines

18. As the NOPR and Final Rule acknowledge,[21] this is not the first time the Commission has considered a proposal to adopt a uniform ROE for purposes of the five-year index. For reasons that apply with equal force to this proceeding, the Commission rejected that previous proposal as inconsistent with its ROE precedent and the simplified and streamlined design of the oil pipeline indexing methodology.

19. In the most recent 2020 cycle, Liquid Shippers proposed to replace the pipelines' self-reported ROEs (which presumably reflected the pipelines' own assessment of their relative risk profiles) with a single, industry-wide ROE values for both 2014 and 2019.[22] Echoing arguments raised in this proceeding, Liquid Shippers claimed that ''if all oil pipeline rates were litigated at the same time, absent unusual circumstances, the Commission would adopt the same ROE for every pipeline because regulated pipelines typically fall within a broad range of average risk,'' and that the pipelines' ''reported ROEs conflict with this principle because they vary substantially.'' [23] Liquid Shippers further argued, citing the ROE Policy Statement, that ''the uncertainty surrounding the Commission's oil pipeline ROE policy undermines the reliability of the reported ROEs for 2019.'' [24] The pipelines, including LEPA (then known as the Association of Oil Pipe Lines (AOPL)), opposed the Liquid Shippers' proposal by: (1) disputing that the reported ROEs were unreliable, (2) noting the Commission's finding that statistical data trimming is sufficient to remove outlying equity cost changes, and (3) asserting that adopting Liquid Shippers' proposal would ''complicate the five-year review by introducing complex cost-of-service ratemaking issues.'' [25]

20. The Commission rejected Liquid Shippers' proposal. First, the Commission held that Liquid Shippers had failed to demonstrate that the pipelines' self-reported ROEs are unreliable, and emphasized that those ROEs are based upon ''established ratemaking techniques.'' [26] The Commission rejected the premise that variation among page 700 ROEs renders them unreliable, and observed that ''although the Commission typically sets the real ROE for oil pipelines at the median of the proxy group results, it may set the ROE above or below the median where the record demonstrates that the pipeline faces anomalously high or low risks.'' [27] With respect to Liquid Shippers' proposed standardized ROEs at that time, the Commission held that ''Liquid Shippers [did] not demonstrate that this figure accurately measure[d] the investor-required cost of equity *for all pipelines in the data set,*'' and stated that ''[g]iven that oil pipelines have diverse business models and different risks levels, *we simply cannot assume that any single ROE could reflect the investor-required return for all pipelines in the data set.*'' [28] Finally, the Commission concluded that ''adopting Liquid Shippers' proposal would undermine indexing's purpose as a simplified and streamlined ratemaking regime,'' noting that ''[d]etermining a just and reasonable ROE, *particularly on an industry-wide basis,* would be a complex and fact-intensive inquiry'' and the Commission's previously-expressed concern that ''addressing such complex cost-of-service issues would improperly complicate and prolong the five-year review process *in violation of EPAct 1992's mandate for simplified and streamlined ratemaking.*'' [29]

21. The Commission's reasoning in the 2020 Final Rule was sound and, facing a proposal with the same fundamental flaws, is equally compelling now.[30] As in 2020, LEPA's ROE Modification proposal purports to demonstrate that a ''single ROE could reflect the investor-required return for all pipelines in the data set,'' [31] a premise that the Commission previously rejected. In so doing, using the proposed ROE Modification sands down the Commission's use of pipeline-specific risk assessment into a rote mathematical exercise, then imputes a single risk profile and associated ROE to an entire industry.[32] This inherent flaw is no different than that which the Commission rightly rejected in the 2020 Final Rule.

22. While the order acknowledges and attempts to distinguish this precedent, the distinctions are not compelling. The order concludes that this situation is different because ''the reported data for 2019 and 2024 reflect different ROE policies,'' while the Liquid Shippers' prior proposal involved a single ROE policy.[33] That distinction has no relevance to the concerns articulated by the Commission in the 2020 Final Rule, which were inherent to the exercise of calculating a single, industry-wide ROE. The order then states that LEPA's proposal to calculate an industry-wide ROE ''coheres with EPAct 1992's mandates for simplified and streamlined ratemaking,'' [34] notwithstanding that Liquid Shippers' similar proposal ran afoul of that same concern in the 2020 Final Rule.[35] At its core, the order does not actually distinguish the 2020 Final Rule, but instead concludes that the ''benefits'' of an ''apples to apples'' comparison between 2019 and 2024 ROE data warrant overlooking the

[21] NOPR, 193 FERC ¶ 61,145 at P 13, n.31; Final Rule, 195 FERC ¶ 61,062 at PP 28, 31.

[22] *Five-Year Rev. of Oil Pipeline Index,* 173 FERC ¶ 61,245, at P 41 (2020) (2020 Final Rule), *order on reh'g,* 178 FERC ¶ 61,023 (2022) (2022 Rehearing Order), *reh'g denied,* 179 FERC ¶ 61,100 (2022), *vacated sub nom. Liquid Energy Pipeline Ass'n* v. *FERC,* 109 F.4th 543 (D.C. Cir. 2024), *order following vacatur,* 188 FERC ¶ 61,173 (2024), *order on reh'g,* 193 FERC ¶ 61,137 (2025).

[23] *Id.*

[24] *Id.* P 42.

[25] *Id.* P 44.

[26] *Id.* P 46.

[27] *Id.* P 47.

[28] *Id.* P 49 (emphasis added).

[29] *Id.* P 50 (emphasis added).

[30] Ironically, LEPA (then known as AOPL) objected to the Commission's 2015 decision to use page 700 data in part because of its concern about the *volatility* of pipeline ROEs, yet now argues it is reasonable to apply a single ROE value to roughly 150 pipelines, representing approximately 75% of the relevant data set. 2015 Index Final Rule, 153 FERC ¶ 61,312 at P 10.

[31] 2020 Final Rule, 173 FERC ¶ 61,245 at P 49.

[32] As discussed below, the record also contains substantial and compelling evidence that this imputed ROE has no correlation to the pipelines' assessment of their own risk profiles and resulting ROEs.

[33] Final Rule, 195 FERC ¶ 61,062 at P 28.

[34] *Id.* P 31.

[35] 2020 Final Rule, 173 FERC ¶ 61,245 at P 50. Compounding matters, the order then notes that *shippers* ''have not proposed a superior alternative adjustment'' to LEPA's proposal, notwithstanding (1) they had no obligation to do so, (2) the NOPR proposed *not* to make an adjustment for reasons consistent with the Commission's findings in the 2020 Final Rule, and (3) the Commission soundly rejected their *last* attempt to propose a uniform ROE in 2020. Final Rule, 195 FERC ¶ 61,062 at P 31.

shared flaws of LEPA and Liquid Shippers' proposals.[36] I disagree that a single ROE could reflect the diverse risk profiles and associated investor-required return for all pipelines.

3. The Pipelines' Own Reported ROEs Undermine the Premise That a Single Industry-Wide ROE Can or Should be Applied

23. Even if the order adequately distinguished Commission precedent that is squarely on point, it would still need to establish that LEPA's proposed modification using a uniform 8.3% ROE reflects the risk profile and associated equity return for the roughly 150 pipelines to which it would apply.[37] The order does not. Notwithstanding LEPA's effort to substantiate that its proposed 8.3% ROE is a reasonable industry-wide estimate, there is a more compelling data set that rebuts the premise of LEPA's proposal: the pipelines' own reported ROEs.

24. If it were reasonable to assume that the oil pipeline industry as a whole is largely homogenous and reflects companies of the same investment risks, then one would expect the *pipelines themselves* to report largely similar ROEs in their annual page 700 filings. Yet, the pipelines' filed page 700 data show *precisely the opposite,* with wide-ranging ROEs that presumably reflect *the pipelines' own assessment* that their risk profiles differ because their businesses, sources of revenue, and cost drivers vary greatly. The pipeline's own reported ROEs thus contradict the notion that they face comparable investment risks such that it is reasonable to use the same 8.3% 2019 ROE for all of them. For instance, even trimming the data set to the middle 50%, the pipelines' filed 2019 ROEs included 8.4% for Yellowstone Pipeline LLC and 16.2% for Tallgrass Pony Express Pipeline LLC. Similarly, the 2024 ROEs filed by pipelines in the middle 50%, which presumably incorporated the CAPM-based ROEs, included similar variation such as 8.39% for Valero Partners PAPS LLC and 16.2% for Caliber Bear Den Interconnect LLC. Moreover, illustrating the wide range of investment risks faced by various pipelines, the *betas* (representing each company's volatility of performance relative to the overall stock market's) in the Order No. 586 proxy group range from 0.780 for Magellan Pipeline to 1.041 for Enbridge Pipeline.[38] These *betas* do not represent values of a relatively homogenous group of pipelines that face the same risks and thereby justifies using a single ROE applied across roughly 150 pipelines.

25. Simply put, both things—that the pipelines' self-reported but divergent ROEs are reasonable and reliable, and a single 8.3% ROE value reasonably reflects their uniform risk profile—cannot simultaneously be true. Through multiple five-year index proceedings over the last decade, the Commission has relied upon the accuracy of the pipelines' own filed ROE data.[39] We and the pipelines cannot have it both ways. If we are to rely on the accuracy of the pipelines' filed page 700 data as a foundation for the index itself, then we cannot simultaneously conclude that it is appropriate to use a uniform, industry-wide ROE in the index for this cycle.

26. I respect and understand the desire to fix the asymmetry in the data set. Accurate and transparent data are foundational to good ratemaking, and I take seriously the task of getting the index right. While the Commission does not need to demonstrate that a solution is perfect, adopting a single CAPM-based ROE that is methodologically flawed and rebutted by substantial evidence elsewhere in the record is not a viable solution to the asymmetry. The Commission is governed by its precedent and bound by the record before it, and I believe neither supports adoption of LEPA's proposal in this case.

4. The ROE Modification Creates Inconsistent and Unreliable Results

27. While the ROE Modification purports to solve the asymmetry, it also creates other methodological problems that undermine the reliability of the index.

28. First, in attempting to address one asymmetry—that pipelines' reported 2019 ROEs do not incorporate CAPM while their 2024 reported ROEs presumably do—the order creates other problematic asymmetries in the ROE data. Under LEPA's proposal, the 2019 data now blend pipeline-specific ROEs (reflecting each pipeline's assessment of its own risk profile) with a uniform 8.3% CAPM-derived ROE (premised on the idea that every pipeline faces identical level of investment risks). The order then compares the blended 2019 ROEs with the pipeline's reported 2024 ROEs that presumably reflect each pipeline's assessment of its own risk profile under *both* DCF *and* CAPM. This approach is not a methodologically-sound ''apples to apples'' assessment of comparable starting and end points, which introduces further methodological inconsistencies into the index analysis.

29. Furthermore, in attempting to create more of an ''apples-to-apples'' comparison for the 2019 and 2024 ROEs, the ROE Modification creates a ''stitching problem'' or a discontinuity between the current and prior index periods. Specifically, Figure 1 below illustrates that the 2014–2019 data used to derive the prior index included the higher DCF-only ROE for the year 2019. The ROE Modification applied to the 2019 data used for the 2019–2024 index comparison at issue here is predicated on the fiction that the 2019 ROE was significantly lower.[40] As a result of the ROE Modification, the pipelines' calculated cost per barrel-mile at end of the first index period would be higher than that at beginning of the second index period, even though both purport to measure data for the same year (2019), creating an inconsistency and a ''stitching problem'' or an analytical discontinuity. Because the indices for every five years create a cumulative effect, with the indices building on the previous ones, the net effect of the discontinuity is an upward bias to the index. The combined impact of using LEPA's proposed ROE Modification would cause the cost changes over the ten years between 2014–2024, and the associated rate increases authorized by the indices relying upon data from this

[36] Final Rule, 195 FERC ¶ 61,062 at P 27 (''Although we recognize that any changes to the reported page 700 introduce a degree of additional complexity, we conclude that *the benefits of more accurately measuring actual industry cost changes* during the five-year review period by using consistent ratemaking policies *support adjusting the reported data notwithstanding these concerns.*'' (emphasis added)); *id.* P 31 (''To the extent that LEPA's proposed CAPM return does not precisely measure the cost of equity for all pipelines in the data set, this imprecision *is justified by the need to resolve the data incongruities resulting from the ROE Policy Change.*'' (emphasis added)).

[37] 2020 Final Rule, 173 FERC ¶ 61,245 at P 49 (rejecting Liquid Shippers' uniform ROE proposal because they ''do not demonstrate that this figure accurately measures the investor-required cost of equity *for all pipelines in the data set*'' (emphasis added)).

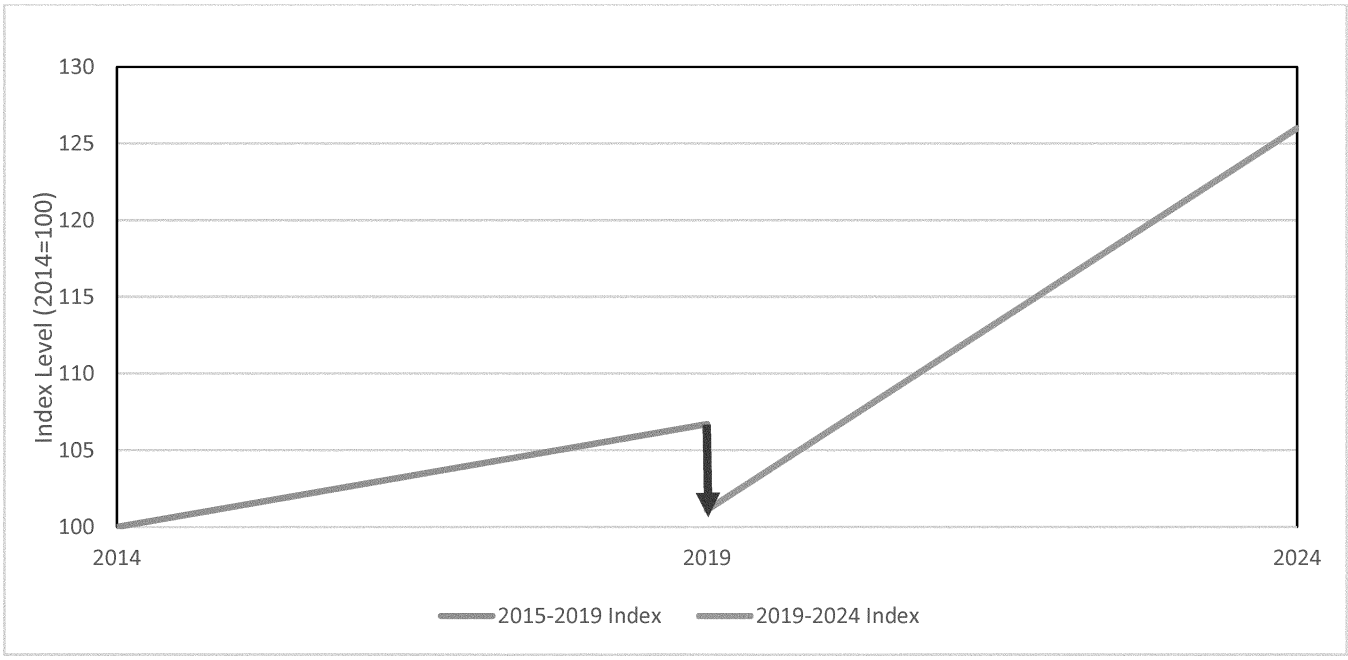
[38] LEPA Dec. 29, 2025 Initial Brief, Ex. No. MJW–L2—ROE Results at CAPM Results tab.

[39] *See, e.g.,* 2020 Final Index, 173 FERC ¶ 61,245 at P 46 (recognizing that pipelines submit their page 700 data under oath and rejecting arguments that the submitted data are unreliable); 2015 Final Index, 153 FERC ¶ 61,312 at PP 12–18 (explaining benefits of page 700 data as a ''superior data source for use in the Kahn Methodology''). The D.C. Circuit Court of Appeals has also affirmed the Commission's decision to use these filed data for the index. *AOPL III,* 876 F.3d at 344–46 (rejecting challenge to Commission's adoption of page 700 data in the 2015 Final Rule).

[40] Figure 1 is derived from the Brattle Group Reply Report appended to the Joint Commenters' Reply Brief. Joint Commenters Jan. 20, 2026 Reply Br., Brattle Group Reply Report at PP 86–87, Fig. 6.

time period, to be much higher than having a consistent approach for the whole period.

Figure 1: 2014–2019 and 2019–2024 Index Levels With ROE Modification Applied to the 2019–2024 Index



5. The Commission Can and Should Rely on the Pipelines' Filed 2019 Data, as Any Methodologically Correct Solution Requires Pipeline-Specific Analysis

30. Having explained why the ROE Modification is flawed as a matter of policy, precedent, and record, I want to address what an appropriate remedy to the asymmetry would look like. This requires additional context about how the Commission ended up where we are.

31. As discussed above,[41] the Commission's ROE Policy Change in May 2020 altered how each pipeline was required to determine its ROE and thus impacted how certain cost data are reported on page 700. Since the index is derived by measuring cost changes over a five-year period, in a perfect world, the starting and end points of that five-year period would be calculated using largely consistent approaches. The Commission recognized as much in the ROE Policy Statement, as it *expressly* ''encourage[d] oil pipelines to file updated FERC Form No. 6, page 700 data for 2019 reflecting the revised ROE methodology established herein.'' [42] *This* solution—specific adjustments to the pipelines' reported ROEs, based on each pipeline's assessment of its risk profile—was and is the methodologically-appropriate way to capture any effects of the ROE Policy Change. Had the pipelines updated their ROEs as the Commission encouraged,[43] then the asymmetry would have been solved and we would not be in our current predicament.

32. Unfortunately, almost all jurisdictional pipelines declined the Commission's invitation, without explanation or justification, to update their ROE to reflect the ROE Policy Change. Only a minority of pipelines *ever* sought to revise their ROEs, and most of those waited roughly five years to do so, right before the commencement of the current index cycle.[44] And it is this combination of events—the ROE Policy Change, coupled with the pipelines' subsequent decision *not* to timely revise their filed 2019 ROE data—that created the problem now before the Commission.[45]

33. So, given the record before us, the Commission must decide how to proceed. The order incorrectly *presumes* that the ROE Policy Change requires a change to the pipelines' filed 2019 ROEs and applies the flawed ROE Modification to implement that change. Instead, the more defensible approach is that Commission should simply rely on the pipelines' filed 2019 ROEs, which the pipelines represented under oath were accurate and declined to update

[41] *Supra* at section II.A.

[42] ROE Policy Statement, 171 FERC ¶ 61,155 at P 92.

[43] As the order observes, subsequent to the ROE Policy Change, the Commission issued Opinion No. 586, which ''further refined its ROE methodology. . . .'' Final Rule, 195 FERC ¶ 61,062 at n.117. While the order characterizes these refinements as ''not reflect[ing] the same ROE policy'' as the ROE Policy Statement, these changes were incremental rather than substantial. *Id.* In any event, pipelines also did not propose to revise their 2019 ROE data following the issuance of Opinion No. 586.

[44] In the NOPR, the Commission preliminarily addressed updated 2019 data submitted by 61 pipelines beginning in April 2025, five years after these cost data were originally due, by proposing to exclude those data from its calculation of the index. NOPR, 193 FERC ¶ 61,145 at PP 15–16. The Final Rule largely sustains this proposed finding by rejecting the non-ROE related ''corrections'' and excluding those data from the final index value adopted in the order. Final Rule, 195 FERC ¶ 61,062 at PP 40–41. I agree with that decision for the reasons stated in the order, and the Commission should expect pipelines to submit timely revisions to page 700 data if the information on file is incorrect. With respect to the pipelines' ROE-related adjustments, the Final Rule finds that the ROE Modification ''sufficiently and more effectively'' addresses the ROE Policy Change, as ''using the ROEs in the resubmitted filings and making the [ROE Modification] for the remaining pipelines could lead to inconsistent treatment of the ROEs across the whole data set.'' *Id.* P 42. For the reasons articulated in the NOPR, I would also exclude the pipelines' late-filed attempt to update their 2019 ROE-related data.

[45] Unfortunately, I think the order misdiagnoses the issue before us as simply the asymmetry resulting from the ROE Policy Change, while failing to account for the contributing role of the pipelines' own inaction. This assessment then leads the order to assume responsibility for fixing a problem that the Commission did not solely create, while absolving the pipelines of their role and adopting their preferred but fundamentally flawed solution instead.

when encouraged to do so. This conclusion would be consistent with the Commission's broader reliance on page 700 data as a reliable foundation for the index, and would send an appropriate signal to the industry that the Commission expects them to maintain accurate and up-to-date information in their page 700s.[46]

III. The Order Errs by Deriving the Index Using the Middle 80 Data Set Rather Than the Middle 50

34. As discussed below, the record and Commission precedent support adoption of the middle 50% data set, rather than the middle 80% data set reflected in the Final Rule.

A. Background

35. As the Commission has explained, the ''purpose of the index is to permit a simplified recovery for normal cost changes, not to enable recovery for extraordinary cost increases or decreases.'' [47] Data trimming helps the Commission achieve that purpose. Specifically, under the Kahn Methodology, after each pipeline's cost change on a per barrel-mile basis is determined, the Commission trims the data set to remove statistical outliers and spurious data. While the Commission has adopted different data trimming approaches, its most common approach has been to trim to the middle 50% of reported data, which the Commission has found effectively removes pipelines with anomalous changes from the data set.[48]

36. In the NOPR, the Commission proposed to use the middle 80% of reported data. Noting that the Commission used the middle 80% in the most recent 2020 index review, the NOPR preliminarily concluded that ''it is appropriate to consider more data in measuring industry-wide cost changes rather than less,'' and that '' 'normal' cost changes are best defined using the inclusive data sample embodied in the middle 80%.'' [49] The Commission affirms these findings in the Final Rule, while also concluding that the middle 80% ''achieves a reasonable balance that incorporates a wide spectrum of industry experience while removing data that could distort the index calculation.'' [50]

B. Commission Precedent and the Record Support Adoption of the Middle 50% Data Set

37. Based on my assessment of the record, I conclude that the middle 50% data set better aligns with the logic and purpose of the indexing methodology, as well as relevant Commission precedent.

38. In each five-year index cycle, the Commission must first decide the appropriate data set to use, which it determines through assessment of the pipelines' calculated per-barrel-mile cost changes. On this record, the middle 50% data set is the superior distillation of representative cost changes across the industry. First, that data set conforms with the index's stated purpose of reflecting normal industry-wide cost changes through its identification of the data set's central tendency. Furthermore, the middle 50% data set captures 82% of all reported barrel miles, demonstrating that it is broadly representative of the cost of transporting oil and refined products across jurisdictional pipeline systems.[51]

39. Furthermore, the weight of Commission precedent supports adoption of the middle 50%, as the Commission's reasoning in those proceedings aligns with the record evidence here. The Commission has repeatedly recognized the benefits of trimming to the middle 50% compared to other approaches, including the middle 80% alternative.[52] The Commission has also emphasized that ''statistically trimming the data set to the middle 50 percent already removes anomalous cost/barrel-miles changes,'' [53] which reduces the need for manual trimming or data adjustments. This approach is thus better aligned with Congress' statutory directive to develop a streamlined and simplified ratemaking design.

40. I also disagree with the order's conclusion that the middle 80% represents a superior data set for capturing normal industry cost changes. While this data set incorporates a substantial number of additional pipelines, it adds only a relatively marginal increase in barrel miles, which increases the risk that anomalous or non-representative data are introduced into the central tendency analysis. Were the data distributed in a statistically normal manner, the difference between data trimming to the middle 50% would not differ materially from trimming to the middle 80%. However, because the data set is skewed to the right with more outliers with costs higher than the mean or median, leaving a greater number of outliers upwardly biases the result. Because the index is intended to reflect typical pipeline costs increases, more substantial trimming is particularly important where the distribution is shifted rightward or leftward. Adding more data does not necessarily improve the data set, and reliance on the middle 50% avoids these unnecessary risks.

41. I am similarly not persuaded by the order's reliance on the 2020 Final Rule as support for deviating from the Commission's reliance on the middle 50% data set in the 2010 and 2015 index cycles. The most recent 2020 index cycle was an unusually unstable exception to the Commission's use of the middle 50%,[54] so I assign the Commission's adoption of the middle 80% in that proceeding limited

[46] This approach also would be consistent with the Commission's reasoning for declining to apply the ROE Modification to pipelines that reported an identical ROE across the full 2019–2024 data set. Final Rule, 195 FERC ¶ 61,062 at P 25 (electing not to apply the ROE Modification to pipelines that reported the same ROE because ''the ROE Policy Change does not appear to have affected how the pipeline reported its ROE on page 700, and it is not clear that each of these pipeline's 2019 data reflect different Opinion No. 154–B policies than their 2024 data.'').

[47] *Five-Year Rev. of Oil Pipeline Pricing Index,* 133 FERC ¶ 61,228, at P 61 (2010) (2010 Index Review), *reh'g denied,* 135 FERC ¶ 61,172 (2011).

[48] *Infra* P 39.

[49] NOPR, 193 FERC ¶ 61,145 at PP 9–10.

[50] Final Rule, 195 FERC ¶ 61,062 at PP 49–52.

[51] This sample size captures an even larger percentage of barrel miles than prior instances in which the Commission relied on the middle 50 data set. *See, e.g.,* 2010 Final Rule, 133 FERC ¶ 61,228 at P 63 (finding that the ''middle 50 percent of pipelines represents 76 percent of total barrel-miles in 2004 subject to the index, and thus for this index calculation, the Commission finds it unnecessary to include the middle 80 percent to obtain a representative sample of the data''); 2015 Final Rule, 153 FERC ¶ 61,312 at n.85 (noting that ''the statistically trimmed data set includes more than 50 percent of industry barrel-miles'').

[52] *See, e.g.,* 2015 Final Rule, 153 FERC ¶ 61,312 at PP 42–44; 2010 Final Rule, 133 FERC ¶ 61,228 at P 61 (''The middle 50 percent more appropriately adjusts the index levels for 'normal' cost changes as opposed to the middle 80 percent, which, by definition, includes pipelines relatively far removed from the median.''); *id.* (''Even when accurate data is reported, pipelines in the middle 80, as opposed to the middle 50, are more likely to have cost changes resulting from factors particular to that pipeline, such as a rate base expansion plant retirement, or localized changes in supply and demand. Using the middle 50 ensures that pipelines with relatively large cost increases or decreases do not distort the index.'').

[53] 2015 Final Rule, 153 FERC ¶ 61,312 at P 23.

[54] While it is true that the ultimate outcome of the 2020 index review cycle was the adoption of the middle 80% data set, the actual story is far more complicated. In the 2020 Final Rule, the Commission adopted the middle 80% data set on a split Commission vote. 2020 Final Rule, 173 FERC ¶ 61,245. Via a subsequent bipartisan vote on rehearing, the Commission reverted to the middle 50% data set, consistent with longstanding precedent. 2022 Rehearing Order, 178 FERC ¶ 61,023. That order was vacated on appeal on procedural grounds, and the Commission subsequently elected, for prudential reasons, to leave the 2020 Final Rule intact. *Supplemental Review of the Oil Pipeline Index Level,* 193 FERC ¶ 61,136, at P 20 (2025) (Supplemental Order). Shippers' appeals of the 2020 Final Rule and the Supplemental Order are pending before the D.C. Circuit. As a result, no court has actually assessed, let alone affirmed, whether the Commission's adoption of the middle 80% in the 2020 cycle was appropriate.

precedential weight, particularly given that the Commission's adoption of the middle 50% was repeatedly affirmed on appeal.[55]

IV. The Record Supports an Index of (PPI–FG)—1.68%

42. Given my disagreement with two critical determinations in the Final Rule and based on my review of the record, I support adoption of a final index level of (PPI–FG)—1.68%.[56] As discussed above, I believe this value is consistent with Commission precedent and supported by the full record before us. I take this opportunity to address two additional points regarding the index: (1) the implications of a ''PPI–FG *minus*'' index value, and (2) the alternative ratemaking options available to pipelines.

A. The Appropriate Approach Yields an Index Lower Than PPI–FG Due to Inflationary Period Between 2019 Through 2024

43. All but one of the index proposals in the record—even that from LEPA—result in an index lower than PPI–FG. This reflects the fact that pipelines' reported costs were less than inflation over the relevant preceding five-year period. Given the well-documented, economy-wide inflation experienced between 2019 and 2024, the resulting negative index is simply an artifact of the approach used in setting the index relative to the inflation rate in the preceding five years. For instance, the Commission's adopted index levels for 2021–2026 authorized pipelines to increase their ceiling levels by roughly 30% over just that five year period,[57] with the overwhelming majority of that increase driven by the PPI–FG index itself, rather than the Commission's annual +0.78% index adjustment. Thus, the level below the PPI–FG properly reflects the oil pipelines' cost changes relative to the *past* five years' inflation rate and therefore carried forward using future inflation rates. Should pipelines' reported costs exceed inflation in this upcoming five-year period, then that differential will be captured in the next index cycle, as contemplated through the simplified index design.

B. Pipelines Have Multiple Ratemaking Options, Including for the Development of System Expansions

44. Finally, the indexing methodology is designed to approximate a simplified cost-of-service framework,[58] through which the Commission considers the interests of both pipelines and shippers in setting rates. I conclude that the alternative index value of (PPI–FG) – 1.68% that relies on the middle 50% dataset and pipelines' self-reported ROE values is consistent with Commission precedent, supported by the record before us, and reasonably balances those competing interests. To the extent that an individual pipeline experiences abnormally high expenses that exceed recovery through the index framework, then it may pursue a cost-based rate. Furthermore, major pipeline expansions can be developed through negotiated and settlement rates that deviate from indexed rates, consistent with longstanding Commission precedent.[59]

V. Conclusion

45. Action on the five-year oil index is among the most consequential decisions any Commissioner issues during his or her tenure. Today's order will likely shift billions of dollars between pipelines and shippers over the next five years, and given the cumulative nature of the index, will have repercussions long past this cycle. Furthermore, higher transportation costs via indexed rates will have a real-world financial impact, including to consumers that use oil or other petroleum-derived products. The result reached in today's order is not adequately supported by the record or Commission precedent.

46. While I disagree with today's order, I respect my colleagues' assessment of the record and the different conclusion that they reached; our disagreement followed robust internal discussions, and resolution of this proceeding will presumably rest with the appellate courts. In the meantime, I look forward to collaborating with my colleagues through other proceedings to continue to faithfully implement our responsibility to ensure cost-effective and non-discriminatory transportation service under the ICA.

For these reasons, I respectfully dissent.

Judy W. Chang,

Commissioner.

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Five-Year Review of the Oil Pipeline Index

Docket No. RM26–6–000

(Issued April 24, 2026)

LACERTE, Commissioner, *concurring:*

1. It is imperative that the oil index ensure that pipeline owners and operators can charge a just and reasonable rate for the important public service which they provide to our nation. The index must also send the right price signal to ensure market stability and achieve economic growth for years to come. Today's final rule, which I completely support, fully achieves these purposes. I write separately to underscore the importance of today's action, given the recent history of missteps with the oil index.[1]

2. The Interstate Commerce Act (ICA) requires that oil pipelines charge ''just and reasonable'' rates.[2] And the Energy Policy Act of 1992 (EPAct) requires the Commission to establish a ''simplified and generally applicable'' ratemaking methodology [3] that is consistent with the just and reasonable standard of the ICA. Based on these directives, the Commission issued Order No. 561, adopting an indexing methodology that allows oil pipelines to change their rates subject to certain ceiling levels, as opposed to making complex, individual cost-of-service filings and mandating annual reporting of summary cost and

[55] *E.g., Flying J Inc.* v. *FERC,* 363 F.3d 495 (D.C. Cir. 2004) (affirming the Commission's decision, following remand, to adopt a middle 50 data set); *AOPL III,* 876 F.3d at 342–44.

[56] I derived this index level by modifying the Final Order's adopted data set by (1) removing the ROE Modification and instead relying on the pipelines' filed ROE data, and (2) using the middle 50% instead of the middle 80% data set. Otherwise, my analysis relies upon the data set approved by the Final Rule, including the accuracy of limited data corrections and assumptions incorporated into the data set. Specifically, I eliminated the addition of the 8.3% ROE Modification the New_Normalized Data tab and the Refile Adjust tab, in both cases leaving the originally filed ROEs.

[57] FERC, *Oil Pipeline Index Indexing Methodology—Indices to be Used, https://www.ferc.gov/general-information-1/oil-pipeline-index.* I derived this value simply by multiplying each of the authorized index values from July 1, 2021 through June 30, 2026. That inflation was particularly pronounced in the two years from July 1, 2022 through June 30, 2024, in which the annual index increases were 9.7% and 14.3%, respectively.

[58] *See, e.g.,* 2015 Index Review, 153 FERC ¶ 61,312 at P 13 (finding that ''the index is meant to reflect changes to recoverable pipeline costs, and, thus, the calculation of the index should use data that is consistent with the Commission's cost-of-service methodology'').

[59] *See, e.g., Saddlehorn Pipeline Co., LLC,* 169 FERC ¶ 61,118 (2019); *see also* 18 CFR 342.2 (providing that a carrier must justify an initial rate for new service by either submitting ''cost, revenue, and throughput data supporting such rate'' or ''[f]iling a sworn affidavit that the rate is agreed to by at least one non-affiliated person who intends to use the service in question'').

[1] *See, e.g., Five-Year Rev. of the Oil Pipeline Index,* 173 FERC ¶ 61,245 (2020), *order on reh'g,* 178 FERC ¶ 61,023 (2022), *vacated sub nom. Liquid Energy Pipeline Ass'n* v. *FERC,* 109 F.4th 543 (D.C. Cir. 2024).

[2] 49 U.S.C. app. 1 *et seq.; see also Tex. & Pac. Ry. Co.* v. *ICC,* 162 U.S. 197, 233 (1896) (explaining that the ICA's purpose is to ''make charges for transportation just and reasonable'' and ''forbid undue and unreasonable preferences or discriminations'').

[3] Public Law 102–486, 1801(a), 106 Stat. 3010 (Oct. 24, 1992).

throughput data in pipeline annual reports.[4] In other words, instead of the Commission setting pipeline rates, it allows pipelines to simply adjust their rates annually by following an index, reviewed every five years, guided by a government-published inflation measure (here, the Producer Price Index for Finished Goods).[5]

3. This process is akin to a rent escalation clause in a lease. The landlord (here, the pipeline in this analogy) does not have to negotiate a new lease every year to raise rent; instead, the contract specifies how often and by how much the rent may increase over time, sometimes involving a set percentage increase over time or by incorporating a variable percentage increase based on, for example, the Consumer Price Index. The Commission's oil index works in a similar fashion: As long as a pipeline stays within its indexed ceiling, as adjusted year-to-year, it can raise or lower rates without needing to engage in a lengthy cost-of-service proceeding.

4. This method reasonably balances precision and simplicity[6] and results in a reduced administrative burden. Pipelines get rate certainty and creditworthiness. Shippers get predictability. Consumers reap the benefits of additional pipeline capacity over time while costs are kept in check. And the Commission avoids adjudicating hundreds or perhaps thousands of individual pipeline rate cases every year (which could go on for years).[7] All parties get to avoid the cost and uncertainty of litigating those cases individually. The tradeoff is that the index may over- or under-compensate any given pipeline, depending on whether its actual costs track the index, which is an inherent source of litigation and strife from economically opposed, sophisticated actors.

5. My colleague's dissent raises various objections to the final rule, but these objections are, as I read them, a fundamental disagreement with the pillars of a periodic index itself. While appearing to acknowledge that something must be done here,[8] in the absence of a perfect (or at least more granularly precise) solution, the dissent would prefer that the Commission continue to chase the rabbit of perfection. I respectfully disagree.

6. In my view, inexactness is an inherent feature of the index, not a flaw. Imprecision, uniformly applied, strikes an appropriate balance between ensuring the index reasonably reflects pipeline cost increases, on the one hand, and maintaining a simple and generally applicable methodology, on the other. But endless tinkering with data sets in search of a desired, or perfect, outcome belies the purpose of the index altogether.

7. Consensus-driven orders at the Commission have been and will remain a priority of mine, but in the absence of consensus, and where required to act, action and progress must continue, as it does here. Commissioners often are frustrated by endless rounds of stakeholder process outside of 888 that fail to produce a pencils-down moment; we should practice what we preach and that moment is now. Action is required in this case, and perfection cannot be the enemy of the good.

8. Balance in the oil value chain is paramount. To that end, I look forward to considering efforts and reforms to maintain that balance in the coming days, weeks, and years, as we continue to take a closer look at our oil regulations beyond the oil index.

For these reasons, I respectfully concur.

David LaCerte,

Commissioner.

[FR Doc. 2026–08264 Filed 4–27–26; 8:45 am]

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[4] *Revisions to Oil Pipeline Reguls. Pursuant to Energy Pol'y Act of 1992,* Order No. 561, FERC Stats. & Regs. ¶ 30,985 (1993) (cross-referenced at 65 FERC ¶ 61,109), *order on reh'g,* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 (1994) (cross-referenced at 68 FERC ¶ 61,138), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996).

[5] *See Five-Year Rev. of the Oil Pipeline Index,* 195 FERC ¶ 61,062, at P 3 n.7 (2026).

[6] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,946; *id.* at 30,940 (indexing provides ''a simplified and generally applicable methodology for regulating oil pipeline rates. . .'').

[7] *Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d at 1430 (''As the Commission explained, simplification results from the elimination, with rare exceptions, of rate-specific examinations of costs.'').

[8] *See, e.g.,* Dissent at P 26 (''I respect and understand the desire to fix the asymmetry in the data set.'').

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